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

The Protection of Nonprofit and Charitable Enterprise Participation in Crowdfunding

Submitted June 18 2014

Background on the Ontario Nonprofit Network

Organized in 2007, the Ontario Nonprofit Network (ONN) is the convening network for the 59,000 nonprofit organizations across Ontario. ONN engages, advocates and leads with- and for-nonprofit and charitable organizations that work for the public benefit in Ontario. As a 7,000-strong provincial network, with a volunteer base of 300 sector leaders, ONN brings the diverse voices of the sector to government, funders and the business sector to create and influence systemic change. Approximately 25% of all Canadian nonprofit organizations are in Ontario.

Background on the Nonprofit Sector

Public benefit organizations – from arts and culture, sports and recreation, newcomer settlement, housing, faith groups and many more – reach almost all Canadians. Core nonprofit organizations (without hospitals, universities and colleges) generate \$35.6 billion or 2.5% of GDP. The core

nonprofit sector is one of the fastest growing sectors of the economy with an annual growth rate of 7.1% nearly doubling from 1997-2007. Contrary to common perception, 45.6% of the core nonprofit sector's revenue comes from sales of goods and services, and an additional 15.9% comes from membership fees. Government transfers from the three levels of government comprise only 19.7% with charitable donations at 14%.¹ In Ontario 88% of socially responsible businesses are operated by charities and nonprofits, 3% by cooperatives and 9% as for-profit corporations (4% of for-profit companies operate for a charity, with 5% as independent for-profit companies).²

The Ontario Nonprofit Network's Submission regarding Proposed Prospectus Exemptions and Proposed Reports of Exempt Distribution in Ontario, and specifically the Proposed Crowdfunding Prospectus Exemption

While others who have been involved in greater depth, such as MaRS, are commenting in more detail, ONN here takes a higher-level view and would like to emphasize the following structural points for consideration as the proposed exemptions are advanced.

ONN advises that all types of start-ups and SMEs be able to benefit from the proposed exemptions, regardless of corporate form, including non-profits and charities. Crowdfunding has strong potential to support innovation and economic growth in the province of Ontario, particularly for small and medium sized business, including those dedicated to earning revenue in the pursuit of social and environmental goals. These social enterprises are an essential, growing component of Ontario's economy, earning revenue and building solutions for the tough challenges our communities face. The core of these enterprises, community nonprofit organizations (without hospitals, universities and colleges), generate \$35.6 billion or 2.5% of Ontario's GDP. We understand that the Ontario Securities Commission (OSC) intends to include nonprofits in the exemptions and strongly encourage this inclusion. To ensure that the OSC does not unintentionally exclude these social enterprises from the opportunities for business development presented by crowdfunding and other proposed exemptions, nonprofits and charities should be explicitly included in the OSC's plans for reform.

ONN advises that debt securities are an essential offering to be included under the proposed exemptions. As nonprofits and charities are unable to issue shares, the inclusion of debt securities is essential for small and medium sized enterprises to be able to use the opportunities of the proposed exemptions as intended by the OSC. Nonprofits and charities use debt to make investments in infrastructure and programming vital to the development of communities across Ontario, including community buildings and equipment: child care facilities, developmental services facilities, hockey rinks, arts and sports equipment, and more. As organizations that re-

¹ *Imagine Canada*; Adapted from the *Satellite Account of Non-profit Institutions and Volunteering*, published by Statistics Canada in 2009.

² *Inspiring Innovation: The Size, Scope and Socioeconomic Impact of Nonprofit Social Enterprises in Ontario*. Canadian Community Economic Development Network, 2012.

invest their revenue into community assets, nonprofits and charities do not issue shares and rely on alternative financing like debt instruments to make these investments.

ONN advises that compliance costs to crowdfunding issuers and portals be minimized for nonprofits and charities. The proposed exemptions require issuers and portals to invest significant financial and time resources to ensure compliance is met. While protection of investors is essential, the approach to compliance for charities and nonprofits, particularly the majority of those that are small and medium sized, requires particular consideration. Legislation that creates an opportunity for start-ups and SMEs of all corporate forms, including nonprofits and charities, must be supported by regulation that takes into account the correspondingly smaller financial and human resource capacity that distinguishes SMEs from larger businesses. This is particularly pertinent to nonprofit and charitable SMEs, which are volunteer driven. Without a commensurate approach to minimizing compliance costs to both issuers and portals, the OSC risks *de facto* excluding community-driven enterprises from raising capital through citizen-driven mechanisms, which is the OSC's expressed goal for the crowdfunding initiative.