



Multilateral Instrument 45-108 Crowdfunding

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What is crowdfunding?

- **Meaning of crowdfunding**

- Method of funding a project or venture through capital raised from a potentially large number of investors or funders over the internet via an online portal intermediary

- **Different crowdfunding models**

- Donation model
- Reward model
- Pre-purchase model
- Peer-to-peer lending model
- Equity securities model

➤ Our focus is on crowdfunding involving a distribution of securities

Crowdfunding regime

- **Multilateral Instrument 45-108 - Crowdfunding**
- Multilateral Instrument 45-108 came into force in Ontario, Manitoba, Québec, New Brunswick, and Nova Scotia on January 25, 2016
- Saskatchewan republished Multilateral Instrument 45-108 on November 5, 2015 for a 60-day comment period
- **Core objective** - Facilitate access to capital, while maintaining appropriate investor protection
 - Address global emergence of crowdfunding as capital raising tool
 - Be responsive to changing technologies, investor demographics and market realities
- **Target group of issuers**
 - Aimed primarily at early stage businesses based in Canada
 - However, intended to address capital needs of issuers at different stages of their growth and business cycle

Development of crowdfunding regime

- **Publications for comment**

- Consultation paper published for comment in December 2012 (102 comment letters)
- Proposed rule published for comment in March 2014 (70 comment letters)

- **In person consultations**

- Hosted 5 public consultation sessions
- Participated in 2 town hall meetings hosted by stakeholders
- Held 46 targeted consultations with stakeholders
- Established and consulted with an external advisory committee

- **Other research**

- Reviewed approach taken in other jurisdictions, including Australia, UK and other European countries and US
- Commissioned research to gauge retail investor interest

Investor survey results

- **Interest** - Respondents showed significant interest in investing in start-ups and small and medium-sized enterprises (SMEs) through crowdfunding
 - **Investment size** - Most respondents were interested in investing < \$5,000
 - **Concerns** - Most respondents had concerns about crowdfunding
 - **Risk** - Some respondents did not appear to understand the risks of crowdfunding
 - **Information needs** - Most respondents thought it was important to have information about the issuer
 - **Advice** - Majority of respondents would seek professional advice before investing
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Key features of Multilateral Instrument 45-108 *Crowdfunding*

Element of exemption	Key features
<p>Issuer qualifications</p>	<p><u>General</u></p> <ul style="list-style-type: none"> - Available to both reporting and non-reporting issuers - Not available to investment funds - Not available to blind pools <p><u>Nexus to Canada</u></p> <ul style="list-style-type: none"> - Incorporated/organized in, head office in, majority of directors resident in Canada - Principal operating subsidiary, if any, incorporated/organized in Canada or the U.S.
<p>Types of securities</p>	<ul style="list-style-type: none"> - Only available for distributions of specified non-complex securities <ul style="list-style-type: none"> - Common shares - Non-convertible preference shares - Securities convertible into common shares or non-convertible preference shares - Non-convertible debt securities linked to an interest rate - Units of a limited partnership - Flow-through shares under the <i>Income Tax Act</i> (Canada)

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Element of exemption	Key features
Offering parameters	<ul style="list-style-type: none">- Issuer group cannot raise more than \$1.5 million under exemption in a rolling 12 month period- Distribution cannot remain open longer than 90 days
Sufficient proceeds	<ul style="list-style-type: none">- Distribution cannot be completed unless sufficient proceeds have been raised to accomplish issuer's business objectives- Includes proceeds from distribution and any concurrent distribution(s) by issuer group- Can distribute securities under other prospectus exemptions with different price, terms and conditions

Key features of Multilateral Instrument 45-108 *Crowdfunding*

Element of exemption	Key features
Solicitation and advertising	<ul style="list-style-type: none">- Prohibition on advertising and soliciting- Exceptions:<ul style="list-style-type: none">- <u>Issuer</u>:<ul style="list-style-type: none">- May inform purchasers that it proposes to distribute securities under the crowdfunding prospectus exemption and direct purchasers to the funding portal- <u>Funding portal</u>:<ul style="list-style-type: none">- Permitted to advertise its business operations- Prohibited from recommending or endorsing a particular issuer or distribution, including highlighting or showcasing an issuer or its distribution

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Element of exemption	Key features
Investor qualifications	<ul style="list-style-type: none"> - None
Investment limits	<p><u>Retail investor:</u></p> <ul style="list-style-type: none"> - \$2,500 per investment - In Ontario, \$10,000 in total in a calendar year <p><u>Accredited investor:</u></p> <ul style="list-style-type: none"> - \$25,000 per investment - In Ontario, \$50,000 in total in a calendar year <p><u>Permitted client:</u></p> <ul style="list-style-type: none"> - In Ontario, no investment limits - In Ontario, Form 45-108F3 <i>Confirmation of Investment Limits</i> - Validation by funding portal
Risk acknowledgement form	<ul style="list-style-type: none"> - Prior to entering online funding portal's platform - Prior to purchasing (Form 45-108F2 <i>Risk Acknowledgement</i>)
Resale restrictions	<ul style="list-style-type: none"> - Subject to resale restrictions

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Element of exemption	Key features
Cooling off period	<ul style="list-style-type: none"> - Investors have 48 hours after date of purchase agreement to withdraw
Point of sale disclosure	<ul style="list-style-type: none"> - Crowdfunding offering document in Form 45-108F1 must be provided to investors (must be accompanied by financial statements) - Term sheets, videos and other summaries can also be made available - Subject to liability <ul style="list-style-type: none"> - Non-reporting issuers – untrue statement of a material fact - Reporting issuers - misrepresentation
Ongoing disclosure	<p><u>Non-reporting issuers:</u></p> <ul style="list-style-type: none"> - Annual financial statements with scaled attestation requirements - Annual disclosure of use of proceeds - In ON, NB, and NS, notice of specified key events <p><u>Reporting issuers:</u></p> <ul style="list-style-type: none"> - Continuous disclosure obligations under securities laws

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Element of exemption	Key features
Registration	<ul style="list-style-type: none"> - Restricted dealer - Exempt market dealer or investment dealer
Obligations of the funding portal	<ul style="list-style-type: none"> - Conduct background checks on the issuer and its directors, officers and promoters - Review the offering document and other permitted materials - Deny access to the platform in certain circumstances
Recommendation and advice	<p><u>Restricted dealers:</u></p> <ul style="list-style-type: none"> - Not permitted to provide a recommendation or advice <p><u>Investment dealers and exempt market dealers:</u></p> <ul style="list-style-type: none"> - Must comply with all of the requirements of their registration, including KYC, KYP and suitability

Key features of Multilateral Instrument 45-108 *Crowdfunding*

Element of exemption	Key features
Prohibited activities	<ul style="list-style-type: none">• Cannot distribute securities of related issuer• Cannot advertise or solicit (may advertise its business operations)



Questions?

Contact Information

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