

June 27, 2019

1. Why are we consulting?

Many factors are impacting and changing Alberta's capital market. Alberta has for many years had a strong capital market with significant representation from the energy sector, pipelines, and related services. Recently, those sectors have been subject to significant economic, socio-political and other pressures. Efforts are increasingly being made to leverage technology to strengthen existing industries, help them adapt to changing dynamics, and expand and diversify the Alberta economy into areas such as alternative energy, health/biotech, agritech, entertainment and tourism, artificial intelligence/machine learning, fintech and other high tech.

There are many parties engaged in these efforts, including business leaders, entrepreneurs, municipal and regional economic development organizations, universities and colleges, angel and venture capital organizations, incubators (providing services to start-ups such as management training and office space) and accelerators (working with a cohort of entrepreneurial teams, providing investment or investment connections, mentoring and pitch training), various levels of government, and technology and industry associations and alliances. Each has a different but important role to play.

The Alberta Securities Commission (ASC) is Alberta's securities regulator. We are responsible for protecting investors and fostering a fair and efficient capital market. We recognize that many of the challenges that must be addressed in Alberta extend beyond securities regulation and relate to broader economic and other factors. However, we believe we can play a role in creating more vibrant public and private capital markets in Alberta, for example, through the following:

Right-touch regulation	Embracing technology	Fostering connections	Informational resource
Removing unnecessary barriers to accessing capital and investing	Ensuring securities regulation adapts to technology solutions employed by those we regulate	Fostering investment alternatives	Helping Alberta investors better understand the considerations and risks when investing
Ensuring investors can continue to have confidence in the Alberta capital markets	Exploring and leveraging technology that can improve capital market efficiencies, reduce costs, and provide investors with better information and analysis	Facilitating connections between entrepreneurs and relevant professionals engaged in the capital raising process	Helping entrepreneurs better understand the capital raising process and available financing options

We are acutely conscious of the need to find the right balance - adequately protecting investors without unduly burdening the businesses trying to raise capital to grow. Regulation is necessary. Investors that lose confidence in the integrity of a capital market stop investing in it. But getting the balance right is critical; time and money spent on regulatory compliance is less time and money available for growing businesses.

We have been conducting research and engaging with market participants to better understand the changes that are occurring in our capital market and the challenges that are facing Alberta market participants. We have a history of engagement with businesses in Alberta's traditional industry sectors and continue to engage with them. Recently, we have expanded our research and engagement to focus more on the private market with a view to better understanding the challenges to those in new and emerging industry sectors as well as rural and smaller urban communities. We have formed our New Economy Advisory Committee¹, a group of experienced external advisors with expertise in the intersection of technology and entrepreneurial capital formation, to assist us and are consulting with them and our other expert advisory committees.

Now, through this consultation paper, we are seeking input more broadly on these issues. We hope to elicit feedback on steps that we – as Alberta's securities regulator – might take to enhance access to capital for Alberta businesses and enhance investment opportunities for investors while still ensuring appropriate investor protection. These efforts are consistent with the government of Alberta's broader expression that "Alberta is open for business", with a renewed focus on job creation and red tape reduction. We want to know what we can do as a securities regulator to help ensure that Alberta is not just one of the best places in the world to live, but also to invest and start, build and grow a business.

Be part of the answer. Share your thoughts.

On or before **September 20 2019**, you can participate by doing any one or more of the following:

- click [here to respond to the survey questions](#);
- email us at new.economy@asc.ca to indicate your interest in participating in an in-person consultation session;
- submit a comment letter.

See **Part 8: Ways for you to participate**, below, for further details.

We are interested in your thoughts on ways we can enhance the Alberta capital market. To stimulate the conversation, we have set out a number of preliminary ideas, described in more detail in Part 7, *Brainstorming ideas*.

2. Contents of this Consultation Paper

The remainder of this consultation paper consists of the following sections:

- Part 3: Executive summary**
- Part 4: Alberta's capital market: Environmental scan**
- Part 5: Initiatives beyond securities regulation**
- Part 6: Existing regulatory burden reduction efforts**
- Part 7: Brainstorming ideas**
- Part 8: Ways for you to participate**

3. Executive summary

Investment in smaller companies in the traditionally dominant sectors of Alberta's capital market (oil and gas, and related services) has declined. Although this reflects broader economic and social factors, the decline has not been off-set by increased investment in other industry sectors.

There is some evidence of diversification of the Alberta economy e.g., the development of technology-focused businesses; however, there is still considerable room for growth.

Alberta is attracting and retaining less than its proportionate share of both public venture capital and investments through private venture capital and angel investing.

Regional financing differences may reflect broader economic factors and local variations in support to small business. There are various parties in Alberta that are and need to be engaged in addressing these issues. Although it is unlikely that securities laws, being largely harmonized across Canada, are the cause of these regional differences, there are potentially ways in which the ASC could participate that, while still protecting investors, could help foster a more vibrant Alberta capital market that can better address financing needs of emerging and growing Alberta businesses.

This Consultation Paper includes a summary of quantitative financing data and feedback we have received to date from market participants about challenges in financing Alberta businesses. We seek input now on what steps the ASC, as Alberta's securities regulator, can take to address some of these issues while ensuring appropriate investor protection. We have included a number of preliminary brainstorming ideas to spur the conversation. These include:

- enhancing our efforts as an informational resource for entrepreneurs;
- expanding the tools available to investors in assessing investments;
- expanding the accredited investor prospectus exemption to include investors who meet certain experience and educational requirements;
- leveraging technology to reduce compliance challenges faced by businesses and dealers in confirming an investor's accredited investor (or other) status;

- pursuing an exemption from dealer registration to facilitate small business financings that are not being serviced by registered dealers;
- providing know-your-client and suitability exemptions to registered dealers involved in smaller financings when dealing with experienced, accredited investors;
- addressing other compliance burdens facing dealers that may disproportionately impact smaller firms;
- facilitating angel investment funds;
- facilitating the development of publicly-traded retail funds to enable investment in early stage businesses;
- reducing compliance challenges for companies conducting cross-border financings;
- authorizing a semi-public market to permit secondary trading by non-public companies;
- exploring enhanced institutional liquidity for private markets; and
- further facilitating crowdlending and peer-to-peer lending.

4. Alberta's capital market: Environmental scan

In an effort to better understand the Alberta capital market, and the role we might play in enhancing both the public and private aspects of it, we have reviewed various quantitative data, considered academic and other papers relating to changes in capital markets, entrepreneurship and innovation, and engaged with our advisory committees and other market participants. We have sought preliminary input on perspectives and suggestions for steps we might take.

The following is a high level summary of certain quantitative information about the Alberta capital market. It is followed by a summary of themes that we have heard from our consultations to date.

(a) Quantitative and statistical information

Alberta's economic situation in the Canadian context

Despite representing only 11.6% of the Canadian population, Alberta's gross domestic product (**GDP**) for 2017 represented approximately 15.53% of the Canadian national GDP. Even with the recession and many Albertans struggling financially, Alberta continued to have the highest provincial per capita GDP at \$71,092 in 2017, being \$23,675 higher than the national average.² In 2017, Alberta contributed \$100.2 billion of the total \$483.6 in value of goods exported.³

Following the recession in 2015 and 2016, Alberta's economy grew by 4.6% in 2017, outpacing all other provinces. The pace slowed in 2018, as Alberta's GDP increased by 2.4%, fourth behind Prince Edward Island (2.6%), Quebec (2.5%), and British Columbia (2.5%). Although with low oil prices the Alberta economy has grown somewhat more diverse, the economy remains significantly dependent on the energy sector.⁴

With 48.8 small businesses per thousand adults, Alberta is second only to Prince Edward Island (49.4). However, the average annual growth rate of small businesses in Alberta was only 0.4% from 2013 to 2017. This does not compare well to the national average annual growth rate of 1.1%. Similarly, the average annual growth rate in Alberta for medium-sized businesses (100-499 employees) was -0.9%, compared to a national average of 1.0%.⁵

Public capital markets in Canada and Alberta

There are a number of very large well-established Canadian public companies. However, overall, Canada's public capital market is predominantly comprised of micro-cap companies. Based on market capitalization, Alberta-based TSXV-traded companies tend to be comparable to other Canadian companies; however, there are proportionately more Alberta-based TSX-traded companies with higher market capitalizations.

There is no precise definition of what constitutes "small cap" but it is often thought to include companies with a market capitalization between US\$300 million and up to US\$1 or \$2 billion.⁶ Nasdaq defines a company as "small-cap" if it has less than US\$1 billion in market capitalization,⁷ being approximately C\$1.34 billion. Similarly, there is no standard definition of "mid-cap" but it is often used to reference companies with market capitalizations up to US\$5 or US\$6 billion with Nasdaq using US\$5 billion as the upper limit.⁸ Using Nasdaq's definitions, and converting to Canadian dollars, the following table compares the market capitalization of Alberta-based TSX and TSXV companies to all TSX and TSXV companies⁹.

Market capitalization	Percentage of all TSXV-listed	Percentage of Alberta TSXV-listed	Percentage of all TSX-listed	Percentage of all Alberta TSX-listed
Nano* and Micro-cap: <C\$401M	99.4%	99.4%	67.7%	56.8%
Small-cap: C\$401M-C\$1.34B	0.5%	0.6%	17.1%	18.5%
Mid-cap: >C\$1.34B-C\$6.69B	0.1%	0%	10%	15.4%
Large-cap: >C\$6.69B	0%	0%	4.9%	7.4%

*91% of TSXV-listed and 40% of TSX-listed companies have market capitalizations below US\$50 million/C\$67 million and would likely be considered "nano-cap".

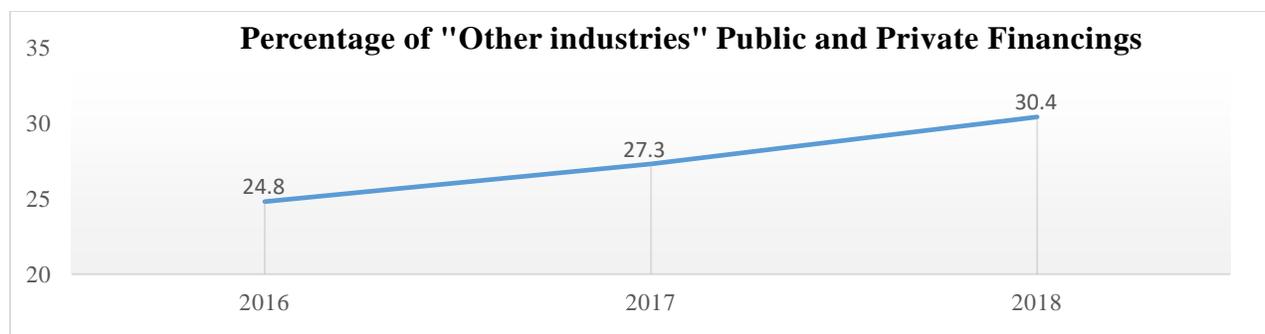
The size of the public companies in Alberta and Canada, relative to international standards, is relevant as we assess both the level of regulatory burden and the potential market risks.

*Financing activity in Alberta*¹⁰

In 2018, there was a total of \$20.1 billion raised by Alberta businesses. This represents a significant decline from prior years which saw \$63.8 billion raised in 2017 and \$53.2 billion in 2016.¹¹

Interestingly, the type of security being issued has also changed. While equity was the dominant type of security issued in 2016 and 2017, in 2018 the significant majority of securities issued by Alberta businesses (publicly and privately) was debt.

Alberta oil and gas and pipeline businesses continue to dominate both public and private financings, with pipeline financings overtaking oil and gas in 2018. However, "Other industries" (industries other than oil and gas, pipelines, financial services, real estate, utilities and investment companies and funds) have seen a year-over-year proportionate increase.



Changes in the public capital markets

Across Canada we continue to see a decline in both the number of operating businesses that are going public (i.e., becoming reporting issuers¹²) and that are staying public.¹³ Some of these businesses exit the public markets because they no longer have a viable business but many exit through acquisition. Although the decline has been noted in Canada¹⁴, the U.S., and elsewhere, this trend appears particularly pronounced in Alberta with the number of listed reporting issuers declining by approximately 35% from 656 in 2013 to 424 in 2018.¹⁵

Like the Alberta economy, the Alberta public capital market continues to be dominated by the oil and gas industry, followed by utilities and pipelines. However, we are seeing significant change in the size of those businesses.

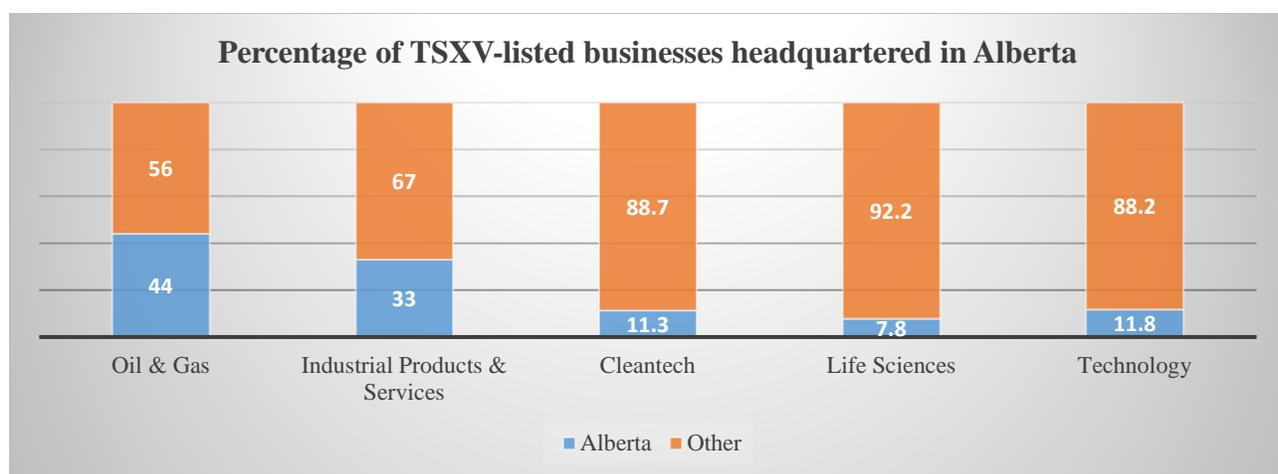
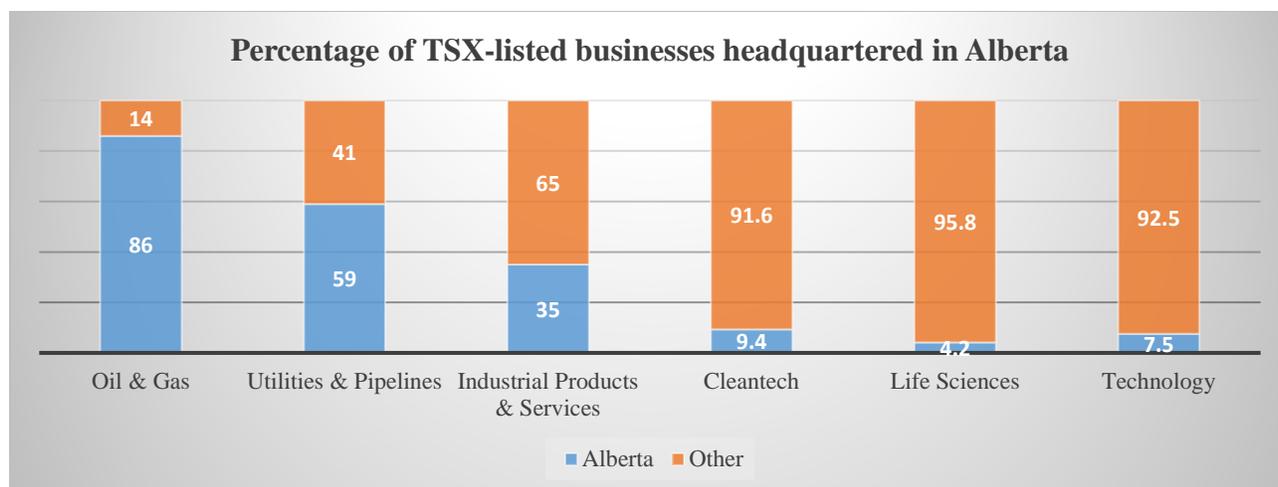
Operating businesses that remain public tend to be getting larger.¹⁶ In contrast, there has been a dramatic decline in the last 10 years in the number of Alberta public “venture” companies i.e., those, trading on the TSX Venture Exchange (TSXV) and the Canadian Securities Exchange (CSE). For example, the number of Alberta-headquartered TSXV- listed businesses has decreased from 422¹⁷ in 2008 to 178 as of December 2018.¹⁸

The market capitalization of Alberta-headquartered businesses represents approximately 19% of the aggregate market capitalization of the Canadian public markets, which is second only to Ontario. However, the number of Alberta-headquartered public companies is much lower, approximately 10.6% of those listed on the Toronto Stock Exchange (TSX) and 10.4% of those listed on the TSXV.

Representation of Alberta publicly traded businesses in traditional and emerging industry sectors

Alberta’s public market reflects the continued dominance of the oil and gas industry, related industrial services, and pipelines.

Although progress has been made in diversifying the Alberta economy, there continues to be room for growth in Alberta’s share of emerging industry sectors in the public markets.



Alberta’s private capital market

Private investment in publicly-traded companies

Larger public companies tend to raise capital by public offering via prospectus. However, the majority of funds raised by smaller publicly-traded businesses is through private financings, by prospectus-exempt financings. For example:¹⁹

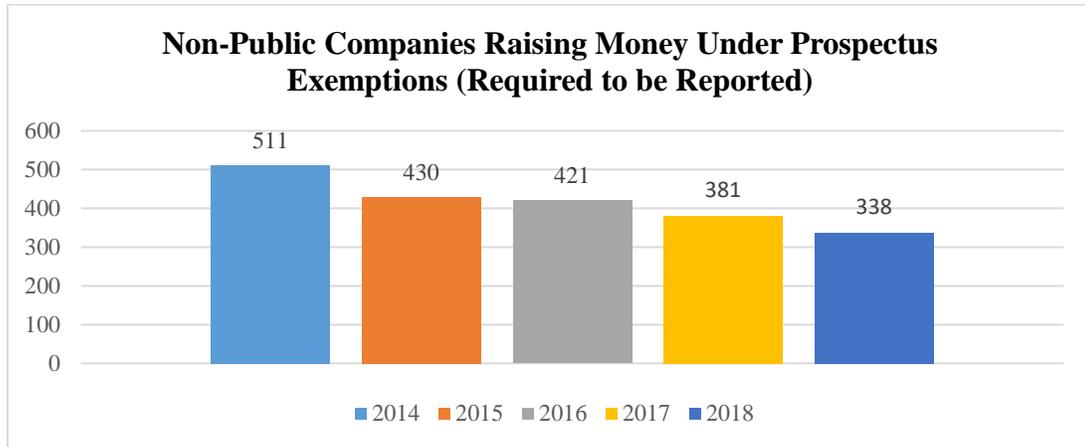
- In 2018, TSX-listed businesses raised approximately \$34 billion of which approximately \$24 billion was by prospectus offering with the remaining \$10 billion being raised under exemptions from the prospectus requirement.
- In contrast, TSXV-listed businesses raised approximately \$6.8 billion of which approximately \$2 billion was by prospectus offering with \$4.8 billion being raised under exemptions from the prospectus requirement.

Private markets, as reported to the ASC

Private financings, raised under prospectus exemptions, by businesses that are not public

companies, represents a significant component of the Alberta capital market. Alberta-based non-public companies raised \$2.7 billion in reported prospectus-exempt financings compared to \$4.1 billion raised by public companies in prospectus-exempt financings.²⁰ Since “private issuers”²¹ e.g., businesses with less than 50 non-employee shareholders are not required to report their financings, the number of private financings by companies that are not public is likely higher.

However, the number of non-public companies raising money under prospectus exemptions (that require reporting to the ASC) has been steadily declining:²²



Supplemental information about private markets

Since businesses that qualify as “private issuers” and only sell their securities to a specified list of persons or companies, such as family, close friends and accredited investors are not required to report those financings, the ASC’s data respecting private financings is not complete and we have looked to other sources to supplement the available information on financings in this private market. However, we have heard from many sources that this data may not necessarily fairly represent the level of private investment activity in Alberta. Venture capital and angel investor associations both report a lack of voluntary reporting in Alberta. This has also been documented in academic research as a particular problem in Alberta.²³ Reasons cited for this include:

- Much of the investment activity in Alberta is through ‘family offices’. These investors may not be interested in publicizing their investments.
- Considerable angel investment in Alberta occurs individually through informal connections among investors rather than through an organized network. Because the investment is not coordinated through an organization it is typically not reported.
- In contrast, in other jurisdictions considerable investment is made through labour-sponsored venture capital funds or other government sponsored vehicles that have an incentive to publicly demonstrate the impact they are making. Venture capital funds in Alberta do not necessarily have the same incentive.

With those caveats, we include the following.

Canadian Venture Capital Association Data

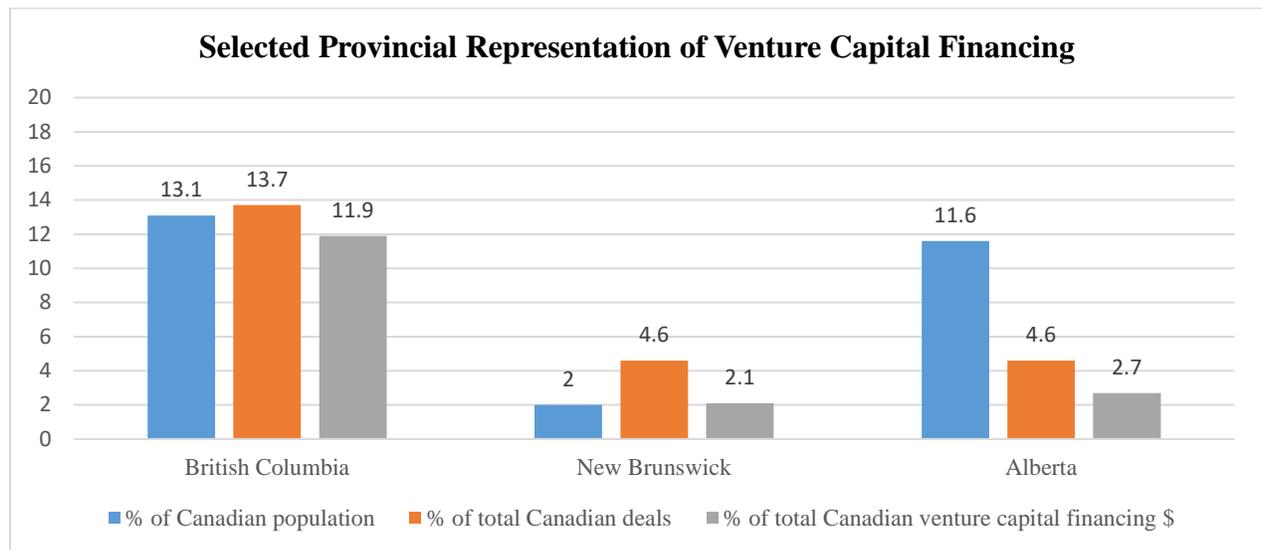
The Canadian Venture Capital Association (CVCA) collects information voluntarily provided to it. The following is a summary of select information from CVCA’s Q4 2018²⁴ report, based on survey data collected.

Private equity

- Nationally, private equity deals are focused on agri-forestry, automotive and transportation, business products & services and cleantech.
- Alberta-businesses accounted for 10.7% of the private equity “buy-out” and “add-on”²⁵ deals but represent only approximately 1.7% of the total Canadian dollar value.
- Alberta businesses represented 7.6% of all private equity deals, but this represents only 3% of the capital raised.

Venture capital

- Venture capital investment in Canada is focussed on four main industry sectors: information and communications technology (ICT), life sciences, cleantech and agribusiness with the significant majority being in the ICT sector.
- Alberta businesses are under-represented in venture capital financing as compared to other Canadian provinces.²⁶



- For 2018, there were 610 deals for a total raise of \$3.7 billion. Calgary ranked #6 in the top Canadian cities or administrative centres (e.g., Kitchener/Waterloo/Cambridge) with 21 deals representing \$58 million. In comparison, Fredericton ranked #7 with 18 deals, representing \$74 million. Calgary was the only Alberta city or administrative centre that made the top 10 for venture capital deals. Interestingly, jurisdictions with the most significant reported venture

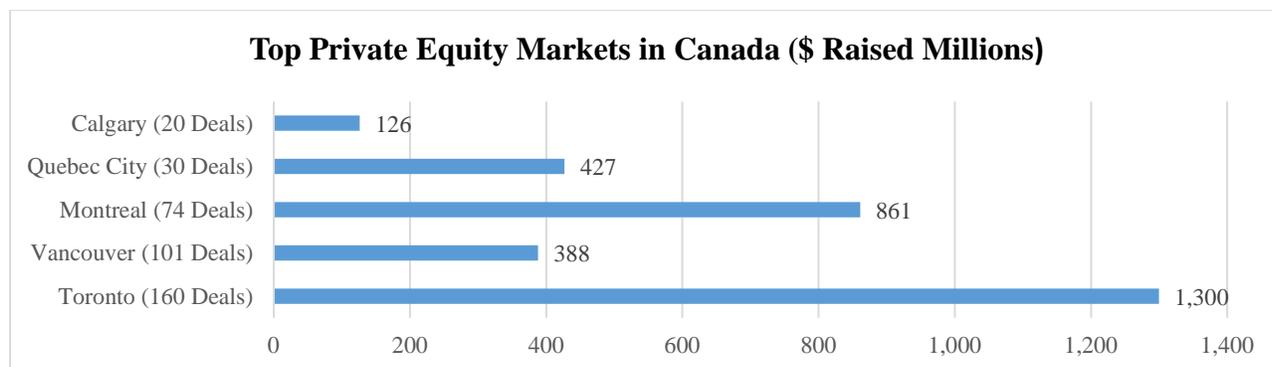
capital investment tend to correlate with those that have active government-sponsored funds and/or locally-based pension funds engaged in venture capital investment.

- Although mergers and acquisition exits are much more common, initial public offering (IPO) exits, when they occurred, generated higher values.

PwC Money Tree Data

The PwC Money Tree report for Q4 2018²⁷ also provides insight into equity financings for emerging Canadian-headquartered private companies that are venture capital-backed.

- This report indicates a total of 471 Canadian venture capital-backed deals (up 30% from 2017) raising a record \$3.5 billion dollars (up 35% from 2017).
- It also indicates a significant increase in corporate investment, e.g., investment by large Canadian and global operating businesses into potentially complementary early-stage business, from 17% at the end of 2016 to 41% in Q4 2018.
- The top 5 markets by deals were as follows:



National Angel Capital Organization Data

Angel investment is another potentially significant source of financing for businesses that are not public. The National Angel Capital Organization (NACO), in June 2019 released its 2018 *Report on Angel Investing in Canada*.²⁸ The report indicates that angels “invest in start-ups that, while offering good potential returns, are not engaged in leading-edge innovation and hence do not offer the prospects of sufficiently rapid growth to attract investment from VC funds...[B]usiness Angels and VC funds play complementary roles in financing entrepreneurial activity.”²⁹

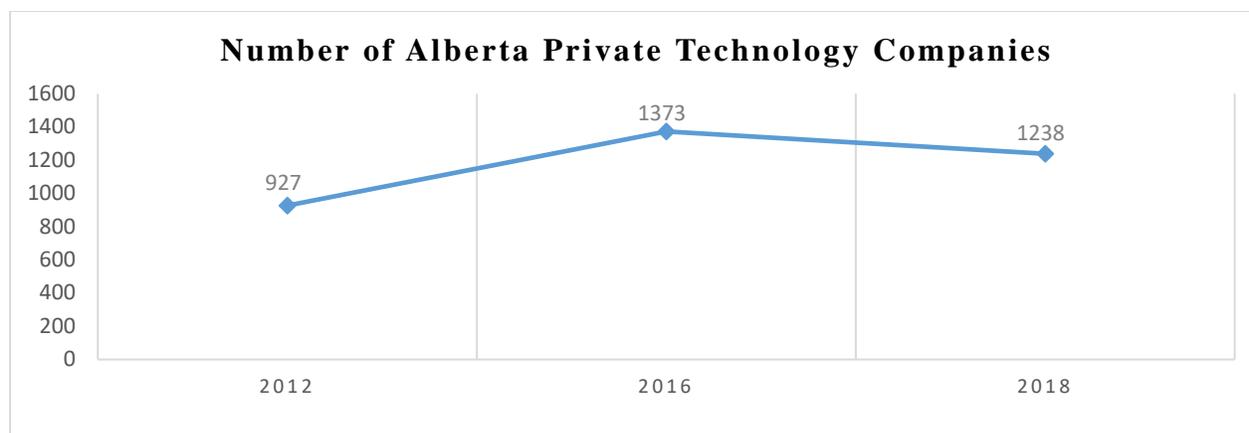
NACO reports that angel investment activity in Canada has increased by 90% since 2013. However, of the 584 investments raising a total of \$142.8 million across Canada in 2018, the four Western provinces collectively account for only 11% of the total number of angel investments and 9% of the total value of investments.

The NACO report includes other Canada-wide information that is helpful in understanding the angel investor ecosystem:

- Angel capital investments tend to be made relatively close to home. In 2013, the majority of investments were made by investors in the same city as the entrepreneur. This has slowly changed such that in 2018, 26% of investments were made in the same city as the angel group. However, 56% of investments were still made in the same province. Investment outside the province by angel groups has remained relatively low.
- Only a small number of those companies that seek financing from angel investors are actually successful in obtaining it. In 2018
 - 17% of applicants were given the opportunity to present to angel members;
 - 51% of those that were given an opportunity to present were funded, such that approximately 9% of all applicants attracted funding.
- Demand for angel financing continues to increase. There were 2,946 applications in 2014, compared to 8,529 in 2017, although this was down to 6,541 in 2018. Despite the increase in applications there has not been an increase in investments.
- Angel groups perceive their main role as supporting their members through rigorous and efficient screening of investment opportunities and performing due diligence. Several groups also emphasize their roles in investor training and education, notably workshops and value-added services such as developing standardized documents.
- Increasingly, angels are investing as groups and as part of broader syndicates with other investors and government programs such as the NRC Industrial Research Assistance Program (IRAP) and Ontario Centres of Excellence.
- Angel groups identified significant challenges arising from a lack of financial resources, difficulties recruiting and retaining members and a lack of successful exits. Angels identified three areas of potential support including resourcing angel groups, tax incentives and encouraging co-investment funds or ‘side-car’³⁰ funds to match investment, citing Sweden and New Zealand as examples.

Alberta Enterprise Corporation Technology Company Data

Alberta Enterprise Corporation’s 2018 *Alberta Technology Deal Flow Study*³¹, suggests there are a significant number of non-public technology businesses in Alberta. For 2018, the report identified 1,238 private technology companies headquartered in Alberta, up 33.5% from the 927 identified in 2012, but down 9.8% from the 1373 companies identified in 2016. Of those, almost twice as many were located in Calgary (767) compared to Edmonton (394).



Based on the 208 responses to Alberta Enterprise’s online questionnaire, head offices are clustered (96%) in our two largest urban centres, with 55% headquartered in the Calgary region and 41% headquartered in the Edmonton region.³² However, since 2016, both Calgary and Edmonton have seen a drop (9% and 14% respectively) in the number of technology companies. Conversely, since 2016, Red Deer has seen a 115% increase from 13 to 28.

Since the last survey in 2016, it appears that Alberta private technology companies may be growing and maturing, with fewer new entrants but with 63% (a 12% increase) having launched and now being in the traction/scaling phase.

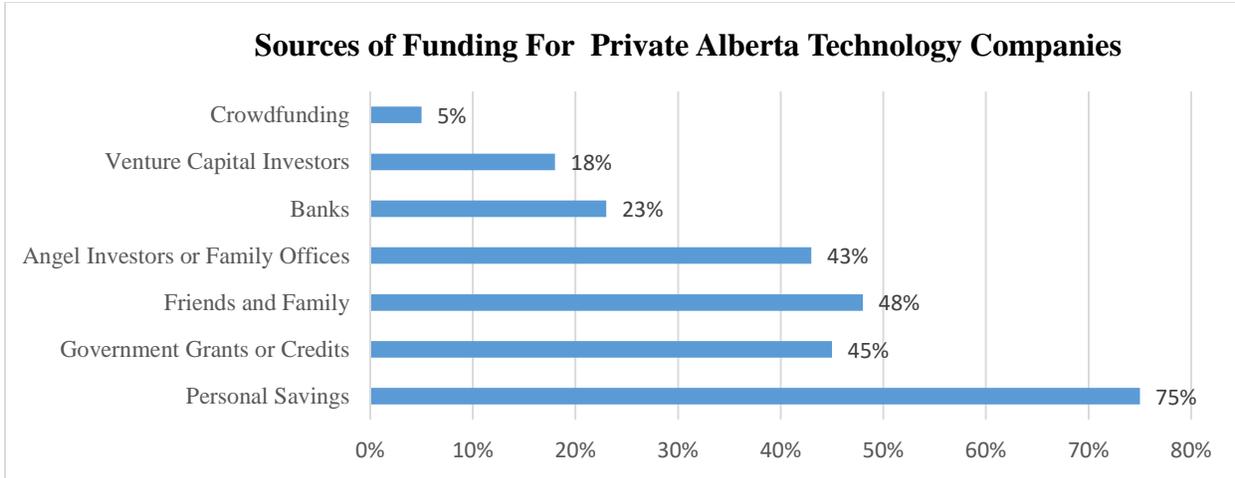
While 24% of companies were still pre-revenue, the majority are generating some revenue, with 23% generating more than \$1 million annually.

Seventy percent of companies are currently seeking funding, with 33% reporting they have obtained financing between \$100,000 and \$1 million and 23% reporting having raised more than \$1 million. Less than \$100,000 has been raised by 17% of the companies and 18% reported no funding to date. 10% did not provide a number.

The location of funders appears to correlate with the location of the businesses. Companies reported that the location of funders (multiple locations could be provided) were as follows:

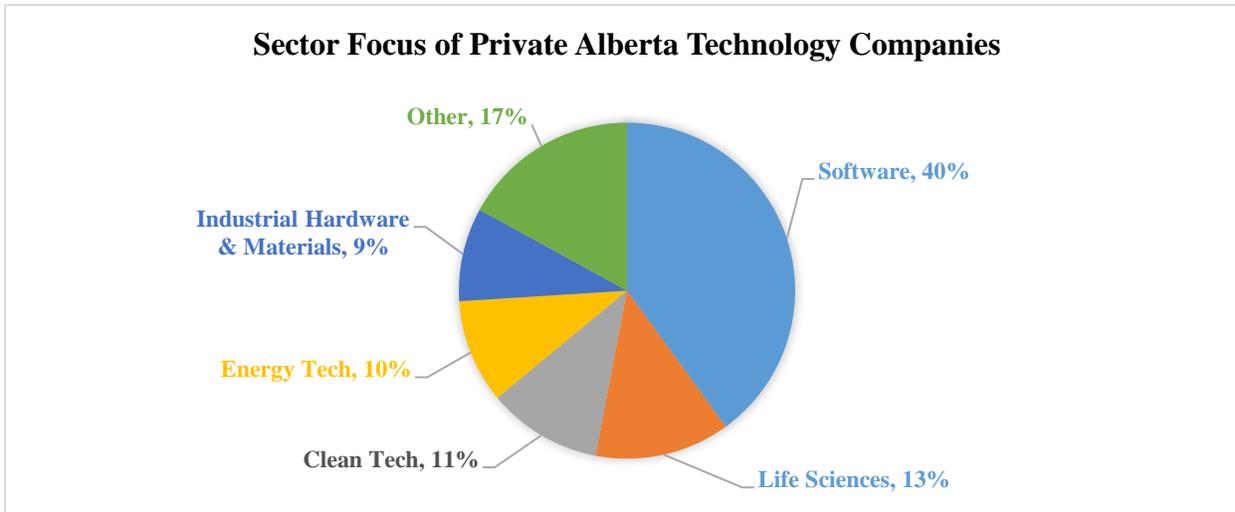
- 50% of companies reporting they had funders from Calgary;
- 31% reported funders from Edmonton;
- 13% reported funders from other locations in Alberta;
- 27% reported funders from elsewhere in Canada; and
- 24% reported funders from the US.

Technology companies reported relying on the following as sources of funding (multiple responses were possible):



Half of the companies reported funding through equity financing, 22% used debt financing and 16% a hybrid.

The following chart shows the sectors in which these technology companies are engaged:



(b) Consultation themes

There are several themes that we have gleaned from consultations and research to date:

Regulatory burden for public companies

In our consultations respecting the reduction of regulatory burden and alternative offering systems, larger Alberta public companies have generally reported that the current securities regulatory system works well for addressing their financing needs.

They have generally reported that the short form / shelf prospectus system is an efficient capital raising mechanism. Similarly, the accredited investor prospectus exemption is considered a significant and efficient source of private capital raising.

In contrast, many smaller public companies continue to report challenges in attracting capital and experience thinly traded securities. These comments persist despite tailored continuous disclosure obligations and various initiatives to make it easier for public companies to raise money from retail investors without requiring a prospectus.

The role of public capital markets***Venture capitalists and Canadian public markets***

Canada has lagged behind other countries like the U.S. in typical venture capital investment. The existence of the public venture market in Canada is unique and it has played an important role in financing growth companies in Canada that might, in other jurisdictions, have been financed through private venture capital. For example, financings by TSXV-listed businesses are often very similar to private financings in terms of size and stage of company and use of proceeds.

In the U.S., venture capitalists and institutional investors, like private equity firms, play a significant role in initial public offerings (IPOs), being involved with approximately 50% of businesses that conduct an IPO. However, in Canada, only 4.8% of all IPOs and 11.85% of non-resource issuer IPOs are venture capitalist-backed.³³

The role of venture exchanges

Canadian public markets are unique. Most businesses conducting IPOs in Canada would be considered to be microcaps by U.S. standards. Further, a significant number of IPOs, particularly on the venture exchanges, are by nano-caps that are pre-revenue.³⁴

Listing on a venture exchange in Canada is seen as a financing strategy for companies with low capital requirements. It is not seen as an “exit”, major financing initiative, or sign of maturation. Some academics suggest that: “[t]he dearth of institutional capital available to finance Canada’s entrepreneurs accounts for the greater reliance Canada has placed on its public markets to supply early stage financing. The regional disparities within Canada explain why the origins of the TSXV are found in western Canada with the Alberta and Vancouver Stock Exchanges.”³⁵

Canada's venture exchanges may provide an attractive alternative to private venture capital investment. One academic paper suggests that the knowledge gained by running a public company traded on a venture exchange translates to significantly better performance on graduation to the TSX as compared to an IPO directly to the TSX following private venture capital financing.³⁶ Other research has examined companies going public, not through a traditional IPO but through the TSXV's capital pool company (CPC) program. It found that while the CPC program has increased the number of junior public companies in Canada, and these companies have shown strong secondary market performance on the TSXV and resulted in a reasonable number (greater than 10%) of graduations to the TSX, those CPC companies that did graduate to the TSX, did not compare well to the market.³⁷

Involvement of registered dealers in capital markets

Academic research suggests that agents such as dealers and underwriters provide a valuable service in the context of private entrepreneurial financing, attracting more investors and broadening both the geographic investor and capital base. This is enhanced by the involvement of more capable agents and multiple agents.³⁸

Feedback suggests that there are a very limited number of registered dealers willing to conduct a public or private financing of less than \$10 million and even fewer willing to finance an offering of less than \$5 million. The exception to this may be the CPC program of the TSXV which allows for the creation of a clean publicly traded shell that can raise up to \$5 million. In comparison, according to the CVCA, three-quarters of all venture capital deals were also under \$5 million.

Local registered dealers in Alberta have experience financing oil and gas and related businesses but may have less experience in evaluating emerging technology sectors. Their clients may also have less familiarity with other sectors. However, registered dealers (both exempt market dealers and investment dealers) and public retail investors demonstrated an interest in new sectors, being highly engaged in financing the emergence of the cannabis industry.

Technology company participation in public capital markets

The traditional roadmap of an early-stage resource company i.e., from private to a venture exchange (e.g., TSXV or CSE) and onto the TSX has not been the typical roadmap for technology companies which are staying private longer and are more likely to seek to sell to a larger business as the exit strategy.

The public venture markets could serve as a means to fill the financing gap for growth tech companies but steps need to be taken to address the concerns of this sector with the public venture markets, e.g., addressing declining levels of retail participation, addressing issues with thinly traded securities, and addressing the lack of independent research respecting smaller businesses.

Being a public company may be less desirable for technology companies because of continuous disclosure obligations, privacy/confidentiality concerns and the potentially reduced scientific research & experimental tax incentives.

The tendency for technology companies to remain private reduces opportunities for the public to access these investments. This creates a cycle as the lack of investment access precludes investors from increasing their familiarity and comfort-level with technology businesses.

Requirements for shareholder engagement and responding to shareholder activism may be a deterrent to going and staying public.³⁹ Further, some have suggested that businesses most successful at maximizing shareholder value are those that have broader, longer-term measures of success.⁴⁰

Investor participation in public capital markets

The average return following an IPO for a public issuer with net assets of less than \$25 million is low.⁴¹ Firms with no revenues at the time of an IPO, not surprisingly, have the poorest performance. Investors may approach investing in these types of businesses similar to a lottery. The performance of these types of businesses, and this approach to investing, means that the public venture market will not be attractive to all investors.

Some suggest that there has been a decline in retail participation in the public venture market. If so, this may indicate a decline in the number of retail investors for whom this type of investment is attractive.

Registered dealers report that the current economic situation, coupled with investor losses in oil and gas investments, have left Alberta public market investors very conservative.

The small market capitalization of publicly-traded “venture” companies, e.g., those trading on the TSXV and CSE, can create investment barriers for some institutional investors. An investment that is modest relative to the investor’s overall portfolio may result in the investor holding 10% or more of a particular issuer, creating regulatory complications for the investor.

The perception is that millennials appear to be investing through means that do not involve active advice, such as ETFs, investing directly through online discount brokerages, or by investing online through crowdfunding, including in crypto-assets. The lack of engagement with, and personal relationships between, registered dealers and millennials may exacerbate the declining levels of retail participation in public venture markets.

Trends and observations

Markets are cyclical. IPOs are more attractive when public markets are hot e.g., cannabis. IPOs allow entrepreneurs to maintain greater control over their enterprise than might be the case with venture capitalist investment. Entrepreneurs will prefer private capital when it provides significantly higher returns.

A decline in the availability or attractiveness of IPOs tends to be matched by a corresponding increase in acquisitions of successful private companies by third parties. In Canada, the acquirer’s are often much larger, typically foreign companies.⁴²

Some hypothesize that structural changes now favour big firms at the expense of small firms and that it is increasingly important, particularly in the technology sector, to get big fast. More often, tech businesses plan an ‘exit’ involving a trade sale to a larger company that is better positioned to exploit the innovation.⁴³

Accessing capital through private markets

Views of angel and venture capital investors

Some venture capitalists and angel investors report that there is an abundance of capital looking for investment opportunities. However, others report that beyond the seed stage, there is a funding gap in financing growing businesses and indicate there is not enough private sector money to address the gap.⁴⁴

Finding businesses with the necessary human capital and experience scaling and growing a business is a challenge for investors. To facilitate growth and achieve success, these companies need “smart money”, or mentorship/advice attached to funding.

Alberta technology businesses need greater access to commercialization resources in the form of sales, marketing and executive talent.

Some suggest that Canadian companies think too small and often do not ask for enough money or have big enough growth plans to attract American venture capitalists.

A number of experienced investors report that, in their experience, investors rarely lose their investment because of fraud but rather because of the failure of the underlying business.

Failure of small businesses is typically attributed to their inability to successfully commercialize their product or service. These businesses may look to both experienced investors and innovation networks to assist with mentorship in this area.

Challenges cited by entrepreneurs

Businesses seeking capital perceive that there are various difficulties in accessing capital, e.g.,

- significant difficulty in identifying and connecting with the investors interested in their sector;
- a lack of venture capitalists on the ground in Alberta which may result in the entrepreneur needing to catch a plane to meet potential investors;
- geographical distance between investors and entrepreneurs can may make it more difficult for potential investors to monitor the business and ultimately deter investment;
- lack of experience and comfort by local investors in evaluating technology-focused businesses;
- little or no angel or venture capital investment available for non-tech businesses;

- even for ‘tech’ businesses, capital is only available for those that have plans for ‘world domination’; and
- challenges in identifying legal, auditing, valuation and other professionals with experience assisting early-stage businesses.

Challenges accessing capital may be more pronounced for entrepreneurs that do not represent the same demographic group as the venture capital or angel investors. For example, while female participation in Alberta’s tech sector represents 30% of founders⁴⁵ (a 50% increase since 2016), women represent only 17% of angel investors⁴⁶ and the percentage of female-led tech companies receiving investment is estimated at 5-6%.⁴⁷

Anecdotal reports and academic research suggest that venture capitalists tend to invest in businesses within relative proximity to their other investments and to other venture capital investors.⁴⁸

A lack of proximate capital may encourage tech entrepreneurs to relocate from the province to obtain financing.

Additional challenges in rural and smaller urban centres

Outside of Calgary and Edmonton, additional financing challenges may exist.

- Although there are various registered dealers, including exempt market dealers, operating in Alberta, they are almost exclusively located in Calgary and Edmonton, creating more challenges for those in other locations.
- Securities law requirements, including public company accounting standards, are complex and highly specialized. It can be challenging to retain professional advisers with experience in these specialties outside of the largest urban centres.
- The requirement for \$200,000 net income to be considered an “accredited investor”, for those living in large urban centres, might be a reasonable proxy for assessing “ability to withstand loss”. However, in rural communities and smaller municipalities, particularly where the cost of living is lower, a different test could be more appropriate in identifying community business leaders.

Involvement of registered dealers in private markets

Liability concerns (e.g., ensuring accredited investor status) and due diligence required to “know-your-product” makes smaller financings e.g., under \$5 million (and for some up to \$10 million) unattractive to many registered dealers.

Regulatory burden associated with compliance obligations can make it uneconomic for smaller registered dealers to operate.

Although exempt market dealers focus on the private markets, clients of most existing exempt market dealers are typically looking for ‘yield products’, for example, by investing in real estate projects and syndicated mortgages. This investment objective is inconsistent with the financing mechanisms employed by technology businesses and the longer term investment horizons required.

Involvement of retail investors and investor protection concerns

Some retail investors express frustration in not having access to private high-risk/high-reward opportunities perceived as being reserved for the wealthy and for institutions.

Conversely, retail investors may not want the risk and long investment horizon (5-10+ years) associated with investing in start-ups. Further, private tech companies may not want ordinary retail investors but prefer sophisticated investors that can provide not just money but also mentorship and advice. Retail investor access to public funds that invest in tech businesses may be a better alternative.⁴⁹

Online non-compliant offerings through non-traditional channels can create significant investor protection concerns. Significant amounts of capital have reportedly been raised in crypto-asset offerings, such as initial coin offerings, from retail investors through direct online offerings by early stage businesses. Many of those that raised capital have reportedly not progressed their businesses.

Investment in start-ups and early-stage businesses are generally much riskier investments than investments in established businesses, and are therefore generally not suitable for an investor unless they can afford the potential loss of their entire investment.

It will often take 10-40 investments in various early stage and emerging growth businesses before even an experienced investor attains the desired overall return. Most of the investments may ultimately be a complete loss, a few may provide a return of some of the original investment, and a select one or two will provide the desired portfolio success.

Investors in the private market face a number of additional risks as compared to investors in public markets:

- Investors will not typically receive the same level of initial or ongoing disclosure as investors in the public markets. In some cases, little or no ongoing information is available.
- Investors in private markets will typically have little or no ability to sell or liquidate their investment.
- Without a secondary market, it can be more difficult to value the underlying business.
- Even if a private business is successful it may take many years before there is an ‘exit’ for investors so these investments are not suitable for investors who need ready access to their

investment funds.

Growing Alberta's innovation economy

According to the Government of Canada's 2019 *Western Canada Growth Strategy*,⁵⁰ Albertans surveyed in fall 2018 "highlighted the importance of economic diversification in order to reduce the volatility of commodity-based boom and bust cycles. A common thread among participants was the need to build on our existing natural resource strengths."

Albertans noted that "diversification needs to be grounded in a recognition of the economic contribution that Alberta's oil and gas sector makes to the province and the country" and that those resources, if allowed to reach international markets, can be both an engine for economic growth and can be leveraged to support diversification and transitioning to a lower carbon future. Albertan roundtable participants noted the need to "invest in areas outside of our traditional strengths, including high-tech sectors like artificial intelligence, cyber security, and robotics". This will add value to traditional industries and allow diversification into agri-food, clean technology, life sciences and healthcare and tourism.⁵¹

There is significant and important innovation occurring in Alberta, for example, by members of the Canadian Oil Sands Innovation Alliance⁵² and through Alberta Innovates and Inno-Tech Alberta, with efforts to reduce environmental impacts including through reduction of greenhouse gas emissions and water consumption. However, the capital for this innovation may be funded by government and large energy corporations that operate in Alberta and consequently may not be reflected in financing statistics.

Although venture capital investment in Alberta is not significant relative to other areas of Canada or in the U.S., there is significant wealth in Alberta e.g., through family offices and wealthy individuals. Energy sector corporate venture capitalists may provide another source of capital. There is also local capital that is experienced in investing in the oil and gas sector that could be unleashed for other purposes.

There is an entrepreneurial investment community in Alberta, but it may be more prevalent in Calgary than elsewhere in the province and may reflect the history of investing in early stage resource businesses. This may create a barrier for entrepreneurs in other parts of the province e.g., scientists and innovators working through the University of Alberta in the artificial intelligence/machine learning space. Edmonton entrepreneurs may have a better appreciation for the vouchers, grants and other government funding opportunities available to them.

According to the TMX's February 2017 *Advancing Innovation Roundtable* whitepaper, Canada produces a high level of early stage and start-up stage companies – second only to Israel.⁵³ Further, financings at this stage have increased by almost 2.5 times since 2010, nearly double the growth rate in the U.S. However, there remains a sizable and expanding gap for financings in the \$5-\$25 million range.

Capital and resources will cluster organically where an industry has shared geography. Success begets success and amplifies the development of a supercluster. Factors evidenced in winning

clusters include⁵⁴:

- world class academic and research centres;
- large, high quality talent pool;
- access to capital;
- connective infrastructure and community;
- high standards of living;
- access to early adopters or receptive markets.

Further efforts may be required in Alberta to help Alberta tech entrepreneurs to move past their invention, connect innovators with those that can mobilize the innovation, identify commercially viable applications, and make the business-world connections necessary to turn the invention into a profitable business.

A significant component of the venture capital that is funding Canadian companies is foreign. Foreign investment can provide important growth capital. However, if emerging technology businesses are acquired by larger foreign businesses, there is a risk that the growth of that business may also move outside the province or country.

Alberta Advantages

Alberta has many advantages that makes it the place to want to start and grow a business:

<p>New low corporate tax rate and low overall taxation rate for businesses and employees</p>	<p>Significant innovation centres* and post-secondary leadership in artificial intelligence, machine learning, medical and health science and energy technology</p>	<p>A highly educated population coupled with a growing focus on entrepreneurial education</p>
<p>Many corporate headquarters, with a strong business community and entrepreneurial spirit</p>	<p>An investor base with experience investing in growth-oriented businesses</p>	<p>High human development index, and low living costs and office costs relative to other major centres</p>

*Some examples of innovation centres in Alberta include Google Deep Mind, Canada’s National Institute of Nanotechnology, The Alberta Machine Intelligence Institute (AMII), The Alberta Centre for Advanced MNT Products (ACAMP), Canada’s Oil Sands Innovation Alliance (COSIA), the Clean Resource Innovation Network (CRIN), NAIT’s Productivity Innovation Centre, SAIT’s Applied Research and Innovation Services (ARIS), and the Red Deer College Centre for Innovation in Manufacturing (CIM). This is in addition to Alberta Innovates and the regional innovation networks.

5. Initiatives beyond securities regulation

As mentioned in the introduction to this Consultation Paper, there are various parties with important roles to play in strengthening and diversifying the Alberta economy.

We are aware of a number of studies that explore ways to enhance innovation and entrepreneurship within Canada. We have been particularly mindful of those studies that make recommendations

relevant to securities regulators. For example, the TMX Group published *Advancing Innovation Roundtable, An Initiative of TMX: Unlocking Growth Opportunities for Canada's Innovation Economy*, February 2017⁵⁵ (TMX innovation report) outlining the significant role that the TSXV has had in financing emerging growth companies and, similarly, the potential significant role it could have in filling the gap for businesses in the technology and innovation sectors. That report identifies a number of issues in the public capital markets that, if addressed, could help support an innovation economy. These include:

- improving retail participation, increasing investor access to expertise, information and investments of the type available to institutional capital;
- because of the lack of independent research, providing alternative tools and information to help investors identify and better understand TSXV investment opportunities; and
- providing a level playing field in respect of taxation, specifically regarding the scientific research & experimental development tax credit.⁵⁶

These reports⁵⁷ provide a number of other potentially useful recommendations; however, most of the other issues raised extend beyond the mandate of a securities regulator and include broader recommendations and considerations that will necessarily engage governments, pension funds, academic institutions and others.

We have taken notice of various significant initiatives being undertaken in Alberta designed to help connect entrepreneurs with both relevant services and would-be investors. Some examples of these include:

- the networking and ecosystem building events of groups such as Rainforest Alberta, A100, Start-up Edmonton and Start-up Calgary;
- accelerator programs e.g., Creative Destruction Labs, Rockies, TEC Edmonton District Ventures and ATB X Accelerator;⁵⁸
- the commercialization resources provided by Alberta Innovates and the various regional innovation networks⁵⁹ and regional and municipal economic development organizations;⁶⁰
- Alberta Enterprise Corporation's efforts to foster a thriving venture capital industry in Alberta;
- the new StartAlberta website that acts to host a central repository of Alberta investors and entrepreneurs;⁶¹ and
- the financial, investing and advisory services provided by BDC, the Business Development Bank of Canada and the federal government's Venture Capital Catalyst Initiative intended to help small and medium sized businesses, start up, scale up and access new markets.⁶²

6. Existing regulatory burden reduction efforts

There are a number of securities regulatory initiatives underway that are intended to reduce regulatory burden while still providing appropriate investor protection. This has been and continues to be an ongoing focus for the ASC and is a core part of the ASC's commitment to intelligent regulation. We believe these existing initiatives and the goals of this Consultation Paper are consistent with the government of Alberta's broader efforts to ensure that "Alberta is open for business", including its renewed focus on job creation and red tape reduction.

We briefly summarize some of the ASC's on-going regulatory burden reduction efforts below.

For operating companies, as previously announced by the Canadian Securities Administrators (CSA), these initiatives include⁶³

- review of potential alternatives to the prospectus offering system for public companies;
- facilitating at-the-market prospectus offerings through the short-form shelf prospectus system and liberalizing existing conditions;
- revisiting the concept of "primary business" which triggers a requirement for financial statements in a prospectus;
- modifying the requirement for a business acquisition report and the accompanying financial statements when a public company acquires or proposes to acquire another business (this is in addition to the adjustment in the threshold that was previously introduced for publicly traded "venture" issuers);
- revisiting certain continuous disclosure requirements including eliminating duplicative requirements and focusing required disclosure; and
- enhancing the ability to electronically deliver documents to investors.

For investment funds, as announced in CSA Staff Notice 81-329 *Reducing Regulatory Burden for Investment Funds*, efforts are being made to rationalize investment fund disclosure and identify opportunities for reduction of regulatory burden.

In addition, the ASC continues to consider the merits of semi-annual financial reporting versus quarterly reporting, including researching existing approaches and monitoring developments in foreign securities regulatory regimes.

Further, the ASC is currently working on an initiative designed to improve access to capital by start-up businesses through a harmonized instrument addressing start-up crowdfunding. We contemplate both a prospectus and a dealer registration exemption designed to facilitate crowdfunding for start-up and early stage businesses. Certain other jurisdictions have local blanket orders to facilitate this and the ASC already has a prospectus exemption to facilitate start-up crowdfunding. The proposed project would build upon these initiatives by introducing a corresponding registration exemption, by harmonizing and extending the regime across

jurisdictions, and by potentially expanding the circumstances under which the current exemptions are available.

7. Brainstorming ideas

With this consultation paper we are interested in feedback on ways we can enhance access to capital for Alberta businesses and investment opportunities for Alberta investors, while still protecting investors.

Given the prior regulatory burden consultations undertaken respecting public companies and the work already underway on existing projects, we are particularly interested in feedback with respect to initiatives relating to private markets. We are interested not just in reducing regulatory burden but in energizing Alberta's capital market, public and private, in ways that might facilitate the growth and development of businesses that will help strengthen and further diversify the Alberta economy while ensuring appropriate investor protection.

As Alberta's securities regulator, our focus must necessarily be on changes we might make to securities law and policy or related guidance and educational efforts we could undertake.

The following are a few brainstorming ideas provided to help stimulate conversation. In some cases they have been suggested to us, in other cases they are ideas we have identified. They are preliminary ideas only.

We are interested in your feedback as to whether any of the following ideas would meaningfully contribute to energizing Alberta's capital markets. We are also interested in feedback on enhancements or modifications to these proposals or suggestions for alternative initiatives.

We note that securities laws are largely harmonized across Canada so it is unlikely that securities laws are the reason for the regional differences we note in financing activity and the growth of innovation and emerging industry sectors across Canada. However, it may be that to both strengthen existing industries and foster diversification of the Alberta economy there is a greater impetus for change in Alberta.

We recognize that if we identify changes to securities laws that would be considered beneficial in Alberta, that our market participants often encourage us to pursue harmonized securities laws across Canada. Accordingly, if the feedback from market participants is that any particular initiative would be significant in enhancing the Alberta capital market, we anticipate that, in addition to exploring and advancing these options in Alberta, we may need to consider ultimately advocating for a harmonized national approach with our CSA colleagues.

(a) Informational resource for Alberta start-ups and early stage businesses on capital raising options

A number of market participants have commented on the lack of experience and understanding many entrepreneurs have regarding the capital raising process and the capital raising options available to them. For example, many entrepreneurs may be unaware of the ability to conduct securities-based crowdfunding in Alberta, the rules relating to it, or even the existence of funding

portals already operating. We have taken steps to provide additional information on the ASC website.

Other suggestions include:

- Although ASC staff cannot act as legal or other professional advisers to market participants, ASC staff could host information sessions and webinars on crowdfunding and common capital raising options as an educational resource for entrepreneurs. To allow for broader dissemination, the ASC might also pursue a series of YouTube or similar videos.
- The ASC could post all of its required forms in Word and/or html format. Also, the ASC could develop more easily fillable forms (note that the ASC has recently taken steps to create a number of fillable forms for registrants.⁶⁴) Simple technology could be used to automatically populate some of this information.
- The ASC could lead an industry-sponsored initiative to develop, together with willing law firms, an industry-standard master subscription agreement for private financings.⁶⁵ Industry led efforts would be necessary to ensure widespread adoption.
- Although the ASC staff cannot endorse or recommend particular professional advisers, the ASC could maintain on its website a contact list of professional advisers e.g., law firms, accountants, valuers, trust companies, dealers (including crowdfunding portals), stock plan administrators and other service providers who annually advise of their interest in acting for small and early-stage businesses.

It has also been suggested that the entrepreneurial ecosystem could benefit from more information on what a timeline of successive financings might look like.

(b) Informational resource for investors investing in Alberta businesses

Although ASC staff cannot act as financial advisers, some market participants have suggested there might be a role for the ASC in increasing investor understanding respecting the exempt market and considerations when investing in start-up and early stage businesses.⁶⁶

Other suggestions have included:

- providing easy access to the ASC's existing database of exempt financings to enable insights on the size and nature of financings being reported to the ASC (note that the ASC recently enhanced the data available through a new dashboard⁶⁷); and
- assisting valuation assessments and enhancing market intelligence by requiring or encouraging certain limited information to be filed with the ASC about private financings that are not currently required to be reported e.g., amount raised, price, and security type.

We note that information resources are developing that may help provide investors with better access to information about businesses in which they might invest. For example, we note the development of the new dashboard, TSX Matrix, providing information on over 1,600 TSXV listed companies. In the private markets, we note StartAlberta's website, providing both a database of

start-up companies and potential investors and a platform to tell the story of Alberta technology entrepreneurs.⁶⁸

(c) Expanding the accredited investor exemption to include educated, experienced investors

Based on the filing of reports of exempt distribution, the accredited investor prospectus exemption is the most commonly used prospectus exemption and the exemption under which the most capital is raised. Under that prospectus exemption, an issuer may sell securities to any person or company that qualifies as an “accredited investor”⁶⁹ without any prescribed initial or ongoing disclosure.

Some individuals have expressed concern that despite relevant education and being experienced investors, they do not qualify as “accredited investors” because they do not meet the financial thresholds e.g., \$200,000 net income or \$1 million in net realizable financial assets (i.e., securities and cash). A number of parties consulted have suggested that appropriate investor protection could still be maintained if we were to consider expanding the accredited investor exemption beyond the current financial test so that educated/experienced investors could also qualify as accredited investors.⁷⁰

Related to that, we have heard that in some cases, small businesses want to provide compensation to their mentors or advisers in the form of securities. In not all cases do the mentors or advisers qualify as accredited investors or close friends or close business associates.

We have heard suggestions for various combinations of education and experience as an alternative⁷¹ to the financial thresholds in the current definition of accredited investor.

What are the right combinations of education and experience? For the educational component, should we consider courses such as those offered through the CVCA Canadian Private Capital Investment School or the NACO Academy⁷² for those investing in private markets?

Given that the policy rationale for the accredited investor exemption is ‘ability to withstand loss’, would it be appropriate to impose some limit on the amount that can be invested by an educated/experienced investor that is not otherwise an accredited investor e.g., the greater of \$30,000 and 5% of their investment portfolio?

(d) Addressing the compliance challenges associated with confirming accredited investor status

A number of market participants have suggested that the ASC should explore leveraging technology to allow accredited investors to establish their status without needing to share all of their personal and financial information to businesses and dealers. One option would be to allow investors that have completed an online explanation and acknowledgement of risk, and have confirmed their high risk tolerance, to upload documents supporting their accredited investor status to the ASC or a trusted central third party. The central party could then confirm, through a unique investor identifier, to any business or dealer to whom the investor provided the unique identifier, that based on the information provided, the investor qualifies as an accredited investor, without the need for the investor to reveal all of their personal information. Tokenized smart contracts or self-sovereign identification technology, such as being explored by ATB Financial,⁷³ might serve to address this.

(e) Registration exemption for finders

Registration is designed to protect investors from, among other things, being pressured or encouraged to make investments unsuitable for their financial circumstances or stated risk tolerance. Registration also serves to set certain minimum standards respecting the integrity and proficiency of those selling securities and introduces certain controls over those that might have custody over a client's securities or monies.

These are important investor protection measures. However, we understand that small businesses raising modest amounts of money may have significant difficulty in attracting a registered dealer to sell their offerings. These difficulties can be exacerbated in rural or smaller communities given the geographical distance to a registered dealer.

We understand that in some cases small businesses may look to certain persons (finders) to connect them with the finder's network of experienced investors.

In some cases, e.g., where the finder is compensated for connecting the issuer with the finder's network, particularly where the finder engages in this activity repeatedly, the finder may be considered to be "in the business" of trading securities and be required to be registered.

We have received feedback recommending that we consider an exemption from the registration requirement that permits finders to connect their network of potential investors with small businesses.⁷⁴

We recognize the financing challenges that these businesses may encounter and that in many cases these networks of investors are experienced investors. However, we are also mindful of the investor protection concerns and the risk that the exemption could be relied on to solicit unsophisticated investors and to undermine the protections of the registration system. Accordingly, if this were pursued, certain conditions or limitations would likely be necessary.⁷⁵

We are interested in feedback on a dealer registration exemption for sales to investors that are accredited investors who also meet certain education and/or experience criteria. We are interested in how such an exemption could be tailored to adequately protect investors but help address the issues associated with smaller financings that are not being serviced by registered dealers.

(f) Reducing compliance costs for registered dealers when dealing with accredited investors

Securities regulation permits "permitted clients" e.g., individuals with at least \$5 million in net realizable 'financial assets' (cash and securities) to waive the protections of know-your-client (KYC) and suitability. Rather than applying a purely financial measure, would it be appropriate to consider a combination of financial ability to withstand loss coupled with experience? For example, should we consider permitting clients to waive the dealer's KYC and suitability obligations if the client is an accredited investor with sufficient investment experience (e.g., investing for at least 5 years in securities other than mutual funds)? Would it be appropriate to impose some limit on the amount that could be invested, e.g., the greater of \$30,000 and 5% of their net worth?

Would this provide adequate investor protection while meaningfully reducing dealer compliance costs? Would this encourage more registered dealers to participate in smaller financings? If not, are there measures that would?

(g) Addressing other registered dealer compliance burdens

We have heard various recommendations to address some of the compliance challenges facing dealers, particularly smaller dealers. Those recommendations include:

- to assist smaller firms with the costs of hiring a full-time chief compliance officer and to address the shortage of persons qualified to act in this capacity for dealers, permit part-time chief compliance officers;
- improve coordination among CSA jurisdictions in the exam schedules for dealers and increase the reliance by CSA jurisdictions on each other;
- to eliminate the need for dealers to provide documents to multiple regulators, develop a registrant portal to allow both regulators and firms to view and upload documents for examinations and other sharing purposes;
- accept alternative means of demonstrating proficiency e.g., permitting a CPA with 20 years of investment banking/sales/research experience to meet the proficiency requirements of the partner, director or officer exam;
- to provide increased clarity and consistency with respect to expectations, develop a rulebook for exempt market dealers; and
- to reduce complexity, reduce the number of trading order types or the best execution consideration obligations that may be generated by the introduction of new order types.

To what extent would these proposals meaningfully reduce the burden on dealers? Would this help to increase dealer participation in the financings of smaller deals? Do any of these proposals raise significant investor protection concerns?

The fragmented public market has also been identified as a major deterrent to participation. How might this be addressed?

(h) Facilitating angel investment funds

In some foreign jurisdictions crowdfunding platforms have developed that cater to angel investors, i.e., accredited investors that are interested in investing privately in early stage and developing businesses. In some cases, these platforms may promote the syndication of investment in start-ups, for example, investors invest in a special purpose entity that invests in the start-up, with the crowdfunding platform providing the administrative services necessary for the special purpose entity. These platforms may allow for one or more investors to act as a lead investor.

Some of these platforms have developed in Canada as well and can serve an important role in connecting entrepreneurs and investors. However, some features of the platforms that exist in other jurisdictions have not yet been accommodated in Canada. In other jurisdictions, these platforms may allow accredited investors to not just invest in particular start-ups, but to invest in a managed fund that then invests in a portfolio of start-ups. The managers of these funds are not necessarily subject to the requirements that would typically apply to investment fund managers and portfolio managers. They may operate under exemptions or other exceptions.

Would such funds be a way to help accredited investors gain greater familiarity with investing in tech businesses? Would diversification help reduce the risks associated with investing in select start-ups? Conversely, without the investor protections provided by registration, such as those related to proficiency and solvency, would such funds create unacceptable risks for unsophisticated or inexperienced, albeit accredited investors? Should we consider adviser registration exemptions where accredited investors have a limited amount of capital at risk? Should we consider alternative proficiency requirements coupled with registration in a category that permits advice in only particular circumstances?

(i) Facilitating the development of a retail, publicly-traded fund focused on innovative businesses

The TSXV CPC program and the TSX Special Purpose Acquisition Corporation or SPAC program facilitate the creation of a public shell company that then typically acquires a single business. These programs can provide an alternative financing source for businesses and liquidity for investors. However, the TMX innovation report, referred to above, recommended that to re-energize retail investment in Canada's public markets, regulators should facilitate the development of a retail, publicly traded venture fund that would co-invest alongside institutional investors in not a single business but a number of businesses. The recommendation contemplated a maximum investment amount for any one retail investor.

Would this assist Alberta businesses with access to another source of potential capital while providing retail investors with access to early stage businesses with reduced concentration risk? If so, what are the barriers to market participants in creating such a fund? Could such a fund be successful in attracting federal government investment into Alberta businesses through the federal Venture Capital Catalyst Initiative? Are any regulatory accommodations necessary or appropriate?

(j) Further facilitating global markets

The multi-jurisdictional disclosure system that has been adopted between Canadian securities regulators and the Securities and Exchange Commission (SEC) in the United States has been very useful in allowing Canadian and U.S. businesses to access the other's respective capital markets, relying largely on the offering document required in their home jurisdiction and the review by their home regulator. Are there other jurisdictions where a similar arrangement would be beneficial?

National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* provides accommodations to certain foreign businesses that are public companies in Canada, allowing them to comply in respect of most of their continuous disclosure obligations

under securities legislation in Canada by filing the disclosure required in their home jurisdiction. However, Canadian businesses seeking cross-border financing or wanting to trade on a marketplace in a foreign jurisdiction may be subject to both domestic and foreign securities laws. To what extent does this create a burden on Alberta businesses or deter them from accessing foreign markets? How might it best be addressed?

(k) Facilitating a semi-public market that allows secondary retail trading by non-public companies

Smaller public companies continue to express concerns with the regulatory burden associated with being public. Although we have adopted different standards for “venture issuers” to reduce the regulatory burden relative to larger public companies, over the last 20 years, the requirements related to being a publicly traded venture issuer have increased.⁷⁶

Although smaller public companies express concerns with the regulatory burden, it is difficult to turn back the clock when investors have grown to expect certain information and standards. Further, we conversely receive feedback respecting the lack of ongoing information provided to investors in the private market, particularly respecting retail investors investing under the offering memorandum exemption.

Some academics suggest a middle ground would be appropriate for smaller companies and argue that the benefits of mandatory disclosure are lower than generally assumed.⁷⁷ Should we consider a “semi-public” regime that would facilitate secondary trading of the securities of smaller companies that have filed an abbreviated offering document or statement of material facts, and that would be required to file some but not all of the ongoing information typically required of a public company?

We contemplate that ongoing disclosure in such a regime would be limited to audited or reviewed annual financial statements, semi-annual (rather than quarterly) financial statements, management’s discussion of highlights, material change reports, and an abbreviated proxy circular. Technical reports for oil and gas and mining companies would be a consideration. It may be appropriate to also consider insider reporting obligations.⁷⁸ Is there other specific disclosure that should or should not be required?

Is there a way to address the liquidity concerns currently associated with trading venture stocks? For example, rather than a continuous auction market, should we contemplate consolidating secondary trading to certain times?

Could trading on an alternative “semi-public” marketplace, help address the concerns of tech companies about the loss of benefits such as the scientific research and development tax credit, associated with being a private business?

In March 2019, the ASC, together with the other members of the CSA and Investment Industry Regulatory Organization of Canada (IIROC) published a consultation paper⁷⁹ respecting the regulation of trading platforms (commonly referred to as ‘cryptocurrency exchanges’) trading crypto-assets. To what extent would this semi-public regime be appropriate for security tokens or utility tokens (that constitute securities at the time of capital raising) trading on such platforms?

Would an alternative secondary market disclosure regime provide better outcomes for investors than investing in private placements, including crowdfunding offerings and initial security token offerings?

What are the potential benefits and limitations of a semi-public regime?

(l) Exploring enhanced institutional liquidity for private markets

An alternative market for secondary retail trading is one possibility for addressing private company liquidity. Another possibility is the model represented by Nasdaq's Private Market,⁸⁰ offering liquidity solutions to private companies and funds, by facilitating secondary trading among a more limited set of institutional investors. The TSX previously offered the TSX Private Markets and a number of dealers facilitate secondary trading among accredited investors in the securities of select non-public companies. Would a more centralized alternative market assist Alberta businesses in connecting with potential investors? If so, what are the key features necessary for such a market to be successful?

(m) Fostering crowdlending and peer-to-peer lending

Not all businesses want to become public companies nor should all businesses be public companies. Similarly, the modest growth prospects of many revenue generating businesses will not attract the interest of venture capitalists and institutional investors. These businesses may still have financing needs that may not be met through bank loans and lines of credit. To what extent could peer-to-peer or crowdlending help satisfy these financing needs and provide investors with an additional investment alternative?

If this would be helpful, are there steps we could take to further facilitate this while still providing appropriate investor protection? We note that peer-to-peer lending platforms are already operating in Canada as dealers registered with securities regulators. Further, we note that the ASC provided prospectus and registration exemptions to facilitate ATB Financial's crowdlending platform, ATB LendR. In addition, as mentioned above, the ASC is developing a harmonized start-up crowdfunding regime for small offerings, that includes a registration exemption. To what extent is the availability of these financing options known and understood? Are there other parties, such as credit unions, often already serving rural and smaller communities, that might also play a role in such initiatives?

8. Ways you can participate

On or before **September 20, 2019** you can participate in one or more of the following ways:

- **Survey:** You can respond to our survey, identifying on a scale from 1-5, the initiatives that you believe will be the most meaningful in energizing Alberta's public and private capital market, by clicking [here](#). You can also provide additional comments in the survey.

We ask for certain demographic information to help understand the types of parties providing comments but the survey can otherwise be completed anonymously.

It will take 5 to 10 minutes to fully complete the survey but it is not necessary to respond to all survey questions.

- **In-person consultation:** If you are interested in participating in an in-person group consultation, please send an email to new.economy@asc.ca indicating that. We anticipate organizing in-person consultations. The number and locations will be dependent on the response received. We anticipate providing webinar access for those that are interested in participating but are not able to attend in-person.
- **Comment letter:** If you wish to provide a more detailed response than the survey allows, we encourage you to provide a written comment letter. Please send your comments by email.

Please **address** your comments to the Alberta Securities Commission.

Please **send** your comments to:

Denise Weeres
Director, New Economy
Alberta Securities Commission
new.economy@asc.ca

Please note that comments received by way of comment letter will be made publicly available and will be posted on the ASC's website at www.albertasecurities.com. We will not keep submissions confidential. You should not include personal information directly in a comment letter. It is important that you state on whose behalf you are making the submission.

Questions

Please direct your questions to:

Denise Weeres
Director, New Economy
Alberta Securities Commission
403.297.2930
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¹ See “Advisory Committees,” Alberta Securities Commission, <https://www.albertasecurities.com/about-the-asc/organization-and-governance/advisory-committees>.

² “Western Economic Diversification,” Government of Canada, Economic Overview, updated September 4, 2018, <https://www.wd-deo.gc.ca/eng/243.asp>; See also “Alberta’s Economy In a League of Its Own in Canada,” ATB Financial, updated May 30, 2018, <https://www.atb.com/learn/economics/the-owl/Pages/ab-economy-in-a-league-of-its-own.aspx>; and see “List of Canadian Provinces and Territories by Gross Domestic Product”, Wikipedia, updated April 10, 2019, https://en.wikipedia.org/wiki/List_of_Canadian_provinces_and_territories_by_gross_domestic_product#cite_note-1.

³ Innovation, Science and Economic Development Canada, *Key Small Business Statistics*, January 2019, [https://www.ic.gc.ca/eic/site/061.nsf/vwapj/KSBS-PSRPE_Jan_2019_eng.pdf/\\$file/KSBS-PSRPE_Jan_2019_eng.pdf](https://www.ic.gc.ca/eic/site/061.nsf/vwapj/KSBS-PSRPE_Jan_2019_eng.pdf/$file/KSBS-PSRPE_Jan_2019_eng.pdf).

⁴ 16% mining, quarrying and oil and gas extraction; 12% real estate and rental and leasing; 10% construction; 7% manufacturing. See “Gross Domestic Product,” Government of Alberta, May 2, 2019, <https://economicdashboard.alberta.ca/GrossDomesticProduct>.

⁵ Innovation, Science and Economic Development Canada, *Key Small Business Statistics*, January 2019, page 8. [https://www.ic.gc.ca/eic/site/061.nsf/vwapj/KSBS-PSRPE_Jan_2019_eng.pdf/\\$file/KSBS-PSRPE_Jan_2019_eng.pdf](https://www.ic.gc.ca/eic/site/061.nsf/vwapj/KSBS-PSRPE_Jan_2019_eng.pdf/$file/KSBS-PSRPE_Jan_2019_eng.pdf)

⁶ Adam Barone, “Small Cap,” *Investopedia*, April 30, 2019, <https://www.investopedia.com/terms/s/small-cap.asp>; see also Cam Merritt, “The Size Limits for Small-Cap, Mid-Cap & Large-Cap Stocks,” *Zacks*, March 6, 2019, <https://finance.zacks.com/size-limits-smallcap-midcap-largecap-stocks-5895.html>.

⁷ “Mid cap,” Nasdaq, <https://www.nasdaq.com/investing/glossary/m/mid-cap>; See also Merritt, “The Size Limits for Small-Cap, Mid-Cap & Large-Cap Stocks,” <https://finance.zacks.com/size-limits-smallcap-midcap-largecap-stocks-5895.html>. USD converted to CAD on a 1:1.34 basis.

⁸ See Nasdaq: <https://www.nasdaq.com/investing/glossary/m/mid-cap>. See also <https://finance.zacks.com/size-limits-smallcap-midcap-largecap-stocks-5895.html>. USD converted to CAD on a 1:1.34 basis.

⁹ “The MiG Report, Toronto Stock Exchange and TSX Venture Exchange,” TMX, December 2018, <https://www.tsx.com/resource/en/1898/mi-g-report-december-2018-en.pdf>. TMX quoted market value was used for market capitalization.

¹⁰ ASC “The Alberta Capital Market”, June 2019 page 46. Note that some statistics in this Consultation Paper will differ slightly from those in the Alberta Capital Markets Report as the latter generally reports on all reporting issuers for which the ASC has principal regulatory responsibility within Canada, including some foreign issuers. This Consultation Paper focuses on issuers headquartered in Alberta. See “Reports & Publications,” Alberta Securities Commission, <https://www.albertasecurities.com/news-and-publications/reports-and-publications#sort=%40z95xcreateddate%20descending>.

¹¹ ASC “The Alberta Capital Market”, June 2019 Chart 2.

¹² We use the informal term “public company” in this Consultation Paper. This term does not have a formal definition under Alberta securities law. Alberta securities law instead uses the term “reporting issuer” An issuer will generally become a reporting issuer by filing a prospectus, by listing on a ‘recognized exchange’ or by conducting an amalgamation or similar transaction with a reporting issuer. An issuer that trades in the U.S. over-the-counter markets may also be deemed to be a reporting issuer. Although reporting issuers are frequently listed on a stock exchange, this is not a requirement. Reporting issuers are required to provide various prescribed ongoing disclosure and are subject to certain governance requirements. Further, certain insiders of reporting issuers are subject to requirements to report trading in their securities. Securities issued by reporting issuers under a prospectus are typically allowed to freely trade in a secondary market. Securities issued by reporting issuers under prospectus exemptions may be subject to restrictions on resale but these restrictions generally do not continue beyond four months.

¹³ There has been a 33% decline in the number of reporting issuers for which the ASC is the principal regulator over the prior five years. See ASC “The Alberta Capital Market Report” May 2018, 1, 7, <http://www.albertasecurities.com/Publications/2018-ACM-FINAL.pdf>. See also Bryce C. Tingle, Ari Pandes, Michael J Robinson, “The IPO Market in Canada: What a Comparison with the United States Tells Us About a Global Problem,” *Canadian Business Law Journal*, (2013) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2460324. See also: Cecile Carpentier and Jean-Mar Suret, “Three Decades of IPO Markets in Canada: Evolution, Risk and Return,” *Cirano*, <https://www.cirano.qc.ca/files/publications/2018s-04.pdf>.

¹⁴ Although we continue to see a decline across Canada in the number of publicly traded operating businesses, this trend is somewhat obscured by the inverse trend of an increasing number of exchange-traded funds (ETFs) and other publicly traded investment funds. See “The MiG Report,” <https://www.tsx.com/listings/current-market-statistics/mig-archives>.

¹⁵ See ASC, “The Alberta Capital Market Report,” May 2018, pages 1 and 7, <http://www.albertasecurities.com/Publications/2018-ACM-FINAL.pdf>; See also ASC “The Alberta Capital Market”, June 2019, Chart 1. Note that the statistics included in this Consultation Paper for Alberta-headquartered public companies will differ from those in the Alberta Capital Market Reports. This Consultation Paper only includes issuers headquartered in Alberta whereas the latter includes all issuers for which the ASC is the principal regulator under the CSA passport system, which includes some companies headquartered elsewhere. See also “The IPO Market in Canada,” and “Three Decades of IPO Markets in Canada.”

¹⁶ ASC, “The Alberta Capital Market Report” May 2018, page 2. Market capitalization of issuers for which the ASC is the principal regulator increased by 9.2% in 2017 to \$904 billion, the highest since 2013.

¹⁷ ASC “The Alberta Capital Market Report” May 2018

¹⁸ “TSX TSXV Listed Issuers,” TMX, December 2018, <https://www.tsx.com/listings/current-market-statistics/mig-archives>.

¹⁹ “The MiG Report,” Toronto Stock Exchange and TSX Venture Exchange, December 2018, <https://www.tsx.com/resource/en/1898/mi-g-report-december-2018-en.pdf>.

²⁰ ASC, “The Alberta Capital Market”, June 2019, page 32. Again, since “private issuers” are not required to report their financings, the amount of money being raised in non-reporting issuer financings is likely higher.

²¹ The term “private issuer” is defined in National Instrument 45-106 *Prospectus Exemptions*. It is a much narrower term than the colloquial “private company”. In general terms, “private issuer” refers to a person or company that is or has issued securities and that meets certain conditions. One of the key conditions is that the issuer have less than 50 security holders (although employees and holders of debt do not need to be included) and that its organizational documents e.g., its articles of incorporation, provide that the securities are not freely tradeable. Reporting issuers and investment funds are not private issuers. Another key condition is that the issuer has only ever distributed any of its securities to certain prescribed persons or companies. See National Instrument 45-106 *Prospectus Exemptions*, http://www.albertasecurities.com/Regulatory%20Instruments/5427069-v1-45-106_NI_Consolidation_Eff_October_5_2018.pdf.

²² ASC “The Alberta Capital Market” June 2019, Chart 23.

²³ Brian Elder, Dr. Michael Robinson, “Alberta Private Equity Markets Study: Phase 1,” *Industry Canada Report*, (2007). See also Thomas F. Hellman, Edward J. Egan, James A. Brander, “Value Creation in Venture Capital: A Comparison of Exit Values Across Canadian Provinces and US States,” *LeadingEdge*: 14, <http://www.llbc.leg.bc.ca/public/PubDocs/bcdocs/379236/ValueCreationVC.pdf>.

²⁴ Canadian Venture Capital Association, “VC & PE Canadian Market Overview 2018,” <https://www.cvca.ca/reports/vc-pe-canadian-market-overview-q4-2018/>.

²⁵ “Buyout” refers to an investment for the control of a portfolio company, including platform creation, secondary buyout. “Add-on” refers to corporate acquisitions by majority controlled private equity backed portfolio companies.

²⁶ See Government of Canada, “The State of Venture Capital in Western Canada,” 2016, <https://www.wd-deo.gc.ca/eng/19494.asp>. According to the study, Western Canada has a small venture capital (VC) market compared to the central provinces, attracting \$609 million of VC investment in 2016 compared to \$1.4 billion in Ontario and \$1.1 billion in Quebec. British Columbia, with \$420 million accounted for over two-thirds of the VC investment in Western Canada. The Conference Board of Canada reports on venture capital received by provinces from 2004 to 2016 and compares venture capital investment in Canada internationally. They indicate significant improvement in venture capital investment in Canada relative to international peers, although paling compared to the U.S. They note considerable variation as between provinces with fairly strong investment in Quebec (0.2 per cent of GDP) and British Columbia (0.18 per cent of GDP) in 2016. Ontario-based firms received more venture capital money but 0.15 per cent of GDP. In contrast, Alberta-based firms fared poorly with 0.022 per cent of GDP. See “Venture Capital,” The Conference Board of Canada, updated May 2018, <https://www.conferenceboard.ca/hcp/provincial/innovation/venture-capital.aspx?AspxAutoDetectCookieSupport=1>.

²⁷ PwC, “Money Tree Canada Report, Q4 & Full-Year 2018,” <https://www.pwc.com/ca/en/industries/technology/money-tree/money-tree-q4-2018.html>.

²⁸ NACO, “2018 Report on Angel Investing Activity in Canada,” <https://www.nacocanada.com/cpages/angel-activity-report>.

²⁹ NACO, “Report on Angel Investing Activity in Canada,” page 10.

³⁰ Sidecar funds are generally thought of as a pooled investment vehicle that invests alongside an angel group. It allows members to invest in a diversified portfolio, allowing investors that do not feel confident assessing investments on their own to supplement their active investments. Generally, the goal is for the fund to be a pass through vehicle for tax purposes and to also avoid exposure for investors beyond their investment. The fund may have a decision-making body and may pay a management fee to the angel group. (As such, absent an exemption, the requirements for a registered investment fund manager and registered portfolio manager, would likely apply.) Generally the funds investment would mirror those of a specified number from the angel group. For further details, see Peter M. Rosenblum, “Sidecar Funds for Angel Groups: A Brief Introduction,” *Foley Hoag LLP*, <https://www.angelcapitalassociation.org/data/ACANewsletter/2-11/Side%20Car%20Funds%20-%20An%20Introduction%20-%20Foley%20Hoag%202-11.pdf>.

³¹ https://www.alberta-enterprise.ca/wp-content/uploads/2019/02/2018_DealFlowReportFeb.pdf

³² More Edmonton companies responded to the survey than did Calgary companies.

³³ Carpentier, Suret, “Three Decades of IPO Markets in Canada,” page 7.

³⁴ Carpentier, Suret, “Three Decades of IPO Markets in Canada,” page 22.

³⁵ Tingle, Pandes, Robinson, “The IPO Market in Canada,” page 323.

- ³⁶ Meoli, Pandes, Robinson and Vismara, “Can Spending Time in the Minors Pay Off? An Examination of the Canadian Junior Public Equity Markets”, *Journal of Small Business Management* 2018 <https://onlinelibrary.wiley.com/doi/pdf/10.1111/jsbm.12392>
- ³⁷ Pandes and Robinson, “Is Exchange Regulation Effective for Junior Public Equity Markets?” 2018 *The Oxford Handbook of IPOs*
- ³⁸ Cumming, Pandes and Robinson, “The Role of Agents in Private Entrepreneurial Finance”, 2015, *Entrepreneurship Theory & Practice*.
- ³⁹ Tingle, Pandes, Robinson, “The IPO Market in Canada,” page 362. See also Justin Fox, Jay. W. Lorsch, “What Good Are Shareholders?,” *Harvard Business Review*, (2012), <https://hbr.org/2012/07/what-good-are-shareholders>.
- ⁴⁰ See Mark Kramer, “What’s Wrong With Maximising Shareholder Value?” *The Guardian*, <https://www.theguardian.com/sustainable-business/blog/maximising-shareholder-value-irony>. See also Brendan Sweeney, “Maximizing Shareholder Value: A Panacea for Economic Growth or a Recipe For Economic and Social Disintegration,” *Royal Holloway, University of London*, <https://www.emeraldinsight.com/doi/abs/10.1108/17422040810849767>.
- ⁴¹ Carpentier, Suret, “Three Decades of IPO Markets,” page 24.
- ⁴² Tingle, Pandes, Robinson, “The IPO Market in Canada,” page 325.
- ⁴³ X Gao, J.R. Ritter, Z. Zhu, “Where Have All the IPOs Gone?” *Journal of Financial and Quantitative Analysis*, (2013).
- ⁴⁴ Geoff Gregson, “Critical Perspectives on Small and Medium-Sized Enterprise (SME) Funding in Canada,” *National Angel Capital Organization*, (2018), https://www.academia.edu/37537506/CRITICAL_PERSPECTIVES_ON_SMALL_AND_MEDIUM-SIZED_ENTERPRISE_SME_FUNDING_IN_CANADA. See also “Quickfire: Report Release: Critical Perspectives on Small and Medium-Sized Enterprise (SME) Funding in Canada,” produced by NACO Academy, June 21, 2018, Youtube Video, <https://www.nacocanada.com/cpages/quickfire-report-release-critical-perspectives-on-small-and-medium-sized-enterprise-sme-funding-in-canada>.
- ⁴⁵ “2018 Alberta Technology Deal Flow Study,” 2. See also “Where’s the Dial Now? Benchmark Report 2017,” PwC, https://docs.wixstatic.com/ugd/55e9d2_efb58fc4258b40978b5d2bc3a9d2a577.pdf.
- ⁴⁶ NACO, “Report on Angel Investing Activity in Canada,” page 1.
- ⁴⁷ *Unleashing Female Capital*, panel speakers at Inventure\$ June 7, 2019.
- ⁴⁸ Xuan Tian, “The Causes and Consequences of Venture Capital Financing,” *Journal of Financial Economics*, vol. 1 (2011), https://www.researchgate.net/publication/227418858_The_Causes_and_Consequences_of_Venture_Capital_Stage_Financing. See also Jun-Koo Kang, Yingxiang Li, Seungjoon Oh, “Concentration of Venture Capital Investors, Corporate Monitoring, and Firm Performance,” 2018, http://www.apjfs.org/resource/global/cafm/2017_5_4.pdf.
- ⁴⁹ Vijay Govindarajan, Shivaram Rajgopal, Anup Srivastava, Luminita Enache, “Should Everyone Be Allowed to Invest In Private Tech Companies?,” October 15, 2018, <https://hbr.org/2018/10/should-everyone-be-allowed-to-invest-in-private-tech-companies>.
- ⁵⁰ Government of Canada, *What We Heard: Public Engagement on a Western Canada Growth Strategy*, April 2019, page 36, <https://www.wd-deo.gc.ca/eng/19820.asp#qnum2>.
- ⁵¹ Government of Canada, *What We Heard, Public Engagement on a Western Canada Growth Strategy*, page 36.
- ⁵² See “Canada’s Oil Sands Innovation Alliance,” COSIA, <https://www.cosia.ca/>. See also “Our Clean Energy Focus,” Alberta Innovates, <https://albertainnovates.ca/our-clean-energy-focus/>.
- ⁵³ TMX, “Unlocking Growth Opportunities For Canada’s Innovation Economy,” 2017, page 24-26, <https://tmx.com/resource/en/569>.
- ⁵⁴ “Primer on Technology Superclusters and a Fact Base on Canada’s Toronto-Waterloo Innovation Corridor,” McKinsey and Company, (2016), www.mckinsey.com/Toronto-Waterloo_Innovation_Corridor_white_paper.
- ⁵⁵ TMX, “Unlocking Growth Opportunities for Canada’s Innovation Economy.”
- ⁵⁶ Technology businesses may look to the scientific research & experimental development (SR&ED) tax incentive under the *Income Tax Act* (Canada). However, this tax incentive may be available at a more advantageous rate for Canadian-controlled private corporations than it is to other businesses such as ‘public corporations’ e.g., a corporation that has a class of shares that trade on a ‘designated’ Canadian stock exchange.
- ⁵⁷ Examples of other reports that address the broader issues associated with developing an innovation economy include “Tech North: Building Canada’s First Technology Supercluster,” McKinsey and Company, (2016), <https://nextcanada.com/TechNorth-McKinsey-Report.pdf>; “Start ‘Em Up: Incubating Nextgen Innovators,” Canada West Foundation, (2016), <http://cwf.ca/research/publications/start-em-up-incubating-nextgen-innovators/>; “The Rainforest Scorecard: A Practical Framework for Growing Innovation Potential, Alberta Progress Observations, 24 months,” Rainforest Strategies, (2018), [Alberta RF Scorecard Report 2016-18-November.pdf](http://Alberta_RF_Scorecard_Report_2016-18-November.pdf).
- ⁵⁸ For information on incubator and accelerator resources see “Calgary’s Coworking Spaces, Incubators and Accelerators,” Startup Calgary,

updated April 4, 2019, <https://www.startupcalgary.ca/startup-calgary-resources/2017/12/11/calgarys-coworking-spaces-incubators-and-accelerators/>; “Programs and Accelerators to Help You Grow,” TEC Edmonton, <https://www.tecedmonton.com/what-we-offer/programs-and-accelerators/>.

⁵⁹ See “Funding,” Alberta Innovates, <https://albertainnovates.ca/funding-entrepreneurial-investments/regional-innovation-networks/>.

⁶⁰ For a summary of these initiatives, see NACO, “Critical Perspectives on Small and Medium-Sized Enterprises (SME) Funding in Canada,” pages 40-43.

⁶¹ Start Alberta, <https://startalberta.com/explore>.

⁶² Government of Canada, SME Research and Statistics, Venture Capital Catalyst Initiative. https://www.ic.gc.ca/eic/site/061.nsf/eng/h_03052.html

⁶³ As announced in CSA Staff Notice 51-353 *Update on CSA Consultation Paper 51-404 Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers*, the CSA is pursuing a number of regulatory burden reduction initiatives designed to assist reporting issuers / public companies.

⁶⁴ See “Frequently Used Forms and Fees,” Alberta Securities Commission, <https://www.albertasecurities.com/registrator-and-market-regulation/registrator-toolkit/frequently-used-forms-and-fees>.

⁶⁵ We note that there are a number of parties endeavouring to provide assistance in this area, e.g., the model documents made available by NACO respecting angel investment. See “Common Documents,” NACO, <https://www.nacocanada.com/cpages/common-docs>; “Venture Capital Model Documents,” CVCA, <https://www.cvca.ca/venture-capital-model-documents/>; and the services provided through the University of Calgary’s BLG Business Venture Clinic <http://www.businessventureclinic.ca>.

⁶⁶ We note that there are also resources available to assist investors in assessing investments. See “NACO Academy,” NACO, <https://www.nacocanada.com/cpages/naco-academy>; “Canadian Private Capital Investment School,” The Ivey Academy, <https://www.ivey.uwo.ca/academy/programs/program-finder/canadian-private-capital-investment-school/>.

⁶⁷ See “Prospectus-Exempt Distributions,” Alberta Securities Commission, updated June 1, 2019, <https://public.tableau.com/profile/albertasecuritiescommission#!/vizhome/ExemptMarketDashboard/EXDDashboard>.

⁶⁸ TSX Matrix <https://tmxmatrix.com/> and StartAlberta <https://startalberta.com/>. Note also StartAlberta’s partnership with Crunchbase. <https://finance.yahoo.com/news/startalberta-forges-data-partnership-crunchbase-105500159.html>

⁶⁹ Although the general prohibitions on fraud and misrepresentations always apply, an issuer relying on the accredited investor exemption is not required to provide the investor with any prescribed offering document. (However, in the case of most individuals, the issuer is required to provide and obtain from them a short prescribed risk acknowledgement form.) Under the accredited investor exemption, there is no limit on the amount that can be raised by an issuer under this exemption and relying on the exemption does not trigger any requirement under securities law to provide ongoing disclosure. The policy rationale for providing the accredited investor exemption is that some investors have sufficient financial means to withstand the loss of an investment and accordingly do not need all of the protections of a prospectus. Although the stated rationale of the exemption is ‘ability to withstand loss’ there may be an implicit assumption of a certain level of sophistication or at least the financial means to obtain necessary advice.

⁷⁰ Interestingly, similar recommendations have been made to the United States Securities and Exchange Commission (SEC) through its annual SEC Government-Business Forum on Small Business Capital Formation as well as through its advisory committee in the SEC, “Final Report of the Securities and Exchange Commission Advisory Committee on Small and Emerging Companies,” September 2017, <https://www.sec.gov/info/smallbus/acsec/acsec-final-report-2017-09.pdf>.

⁷¹ For example, individuals who met the following criteria might be permitted:

- persons that hold a chartered financial analyst designation;
- persons that hold an MBA, finance degree, accounting designation, engineering degree or law degree that have been investing in securities, other than mutual funds, for a minimum amount of time e.g., 3 years and that have made a minimum number of investments e.g., 10;
- persons that have passed a prescribed exam e.g., the Canadian Securities Course or the Exempt Market Proficiency Course, with a mark of at least 80%, and have been investing in securities, other than mutual funds, for a minimum amount of time, e.g., 3 years and have made a minimum number of investments e.g., 10; or
- persons or companies that have been investing in securities, other than mutual funds, for a minimum amount of time, e.g., 5 years and that have made a minimum number of investments e.g., 20.

⁷² *Ibid* note 65.

⁷³ See for example: “Canada’s ATB Financial Joins Sovrin Network as a Founding Steward,” *Globe News Wire*, November 15, 2017, <https://www.globenewswire.com/news-release/2017/11/15/1193646/0/en/Canada-s-ATB-Financial-joins-Sovrin-network-as-a-founding-steward.html>; “ATB & the Value [Block] Chain – Engaging in Inspired Solutions,” *Medium*, June 6, 2018, <https://medium.com/atb-alphabeta/atb-the-value-block-chain-engaging-in-inspired-solutions-12703a62db7e>.

⁷⁴ Again, we note that similar proposals have been made to the SEC through its annual SEC Government-Business Forum on Small Business

Capital Formation as well as through the *Final Report of the Securities and Exchange Commission Advisory Committee on Small and Emerging Companies* recommended made a finder exemption.

⁷⁵ To address the potential risks associated with unregistered finders, conditions that might apply include:

- the subscription funds would be paid directly to the issuer and the finder would not be permitted to hold them;
- the finder would not be permitted to provide any investment advice or recommendations;
- the finder would have to provide notice to the ASC of having relied on the exemption; and
- to avoid confusion about the role of the finder and the nature of its obligations to an investor, the finder could not be or have previously been registered or been engaged in providing financial planning or similar advice.

⁷⁶ For example, the introduction of a requirement for management's discussion and analysis including for businesses without significant revenues, a breakdown of expenditures; the introduction of requirements for business acquisition reports, including in connection with certain "restructuring transactions" the disclosure that would be required in a prospectus; the introduction of additional requirements relating to executive compensation disclosure; the introduction of international financial reporting standards (IFRS); the introduction of new governance and disclosure requirements under National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* and National Instrument 43-101 *Standards of Disclosure for Mineral Projects*; the introduction of a more extensive set of policy requirements by the TSXV relative to those of the Alberta Stock Exchange, including the enhancement of disclosure in connection with a CPC's qualifying transaction and in respect of reverse take-overs and changes of business, and the requirement that the issuer be a true 'blind pool', without any potential transaction being contemplated; the enhancement and formalization of expectations of dealers and advisers; the introduction of tailored governance disclosure requirements; the introduction of requirements for audit committees and certain tailored disclosure respecting them; and the introduction of annual and interim CEO and CFO certifications, albeit without a requirement to certify controls.

⁷⁷ "Marshall Lux, Jack Peard, "Hunting High and Low: The Decline of the Small IPO and What to Do About It," *Harvard Kennedy School, Mossavar-Rahamani Center for Business and Government*, (2018): page 25, https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/working.papers/86_final.pdf.

⁷⁸ Note that a somewhat similar concept has been adopted in the U.S. by the SEC under Tier 2 of Title IV of the *JOBS Act*, what is colloquially referred to as "Reg A+", and note that it is serving as a financing vehicle for some businesses in the U.S. Some feedback suggests that Reg A+ might prove to be more successful once some of the challenges posed under state securities law respecting secondary trading are addressed.

⁷⁹ Joint CSA/IROC Consultation Paper 21-402 *Proposed Framework For Crypto-Asset Trading Platforms*, <https://www.albertasecurities.com/-/media/ASC-Documents-part-1/Regulatory-Instruments/2019/03/5450795--CSAConsultationPaper21402ProposedFrameworkforCryptoAssetTradingPlatforms20190301.ashx>.

⁸⁰ See Nasdaq Private Market <https://www.nasdaqprivatemarket.com/>

September 9, 2019

BY EMAIL

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Dear Sirs/Mesdames:

Re: ASC Consultation Paper 11-701 Energizing Alberta’s Capital Market (the “Consultation Paper”)

The Canadian Advocacy Council of CFA Societies Canada¹ (the CAC) appreciates the opportunity to provide the following responses to certain of the questions posed in the Consultation Paper.

We understand you are consulting market participants with respect to preliminary suggestions about changes to securities regulation that may contribute in a meaningful way to energizing the capital markets in Alberta. We appreciate the opportunity to comment on this important initiative, which indicates that the ASC is indeed “open for business” and considering creative approaches to revitalizing the private markets. Consultations such as this one also assist with other regulatory priorities such as the CSA’s various burden reduction initiatives, of which we are very supportive.

We wish to provide the following comments on the Consultation Paper which address some of the ideas raised. For ease of reference for our discussion, we have used the headings utilized in Part 7 of the Consultation Paper. We have also responded separately to the survey questions set out in the Consultation Paper.

(a) Informational resource for Alberta start-ups and early stage businesses on capital raising options

¹ The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 18,000 Canadian CFA charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors’ interests come first, markets function at their best, and economies grow. There are more than 165,000 CFA charterholders worldwide in 164 markets. CFA Institute has nine offices worldwide and there are 156 local member societies. For more information, visit www.cfainstitute.org.

We would be supportive of an initiative to expand the ASC's role in this area, and believe that given the ASC's independence, there are a number of opportunities for the ASC to act as an informational resource in different contexts. For example, entrepreneurs would benefit from interactive content such as videos and webinars hosted on the ASC website in an easily accessible format on common capital raising options. In particular, a video employing multi-media techniques and visual aids (e.g. flow charts) to make the presentation both informative and engaging will assist viewers to absorb and utilize the information provided. The presentation could include links to the relevant National Instrument or guidance for more detailed information. Hosting a blog for market participants where entrepreneurs and industry personnel provide advice to start up companies seeking guidance could also be helpful. Such tools will serve as credible resources that will facilitate capital formation and benefit the capital market ecosystem.

One of the other suggestions listed indicates that the ASC could lead an industry-sponsored initiative to develop a standard master subscription agreement for private financings. We understand that industry standard financing documentation already exists for members of various industry organizations (for example, those targeted at portfolio managers or venture capital firms). It would be very useful for the ASC to work with these organizations to make some of these templates more available to the public. Start-up companies in particular would greatly benefit from the cost and time savings of having suitable initial documentation easily available. To the extent these forms included an auto-fill function, even more time and cost could be saved by issuers and investors who might otherwise be dissuaded by paperwork from making multiple allocations of capital across a variety of issuers. For example, we would support the development of an industry-standard master subscription agreement for private financings to reduce input errors, simplify the process and provide greater confidence to stakeholders.

While ASC staff certainly should not be expected to act as professional advisors to market participants, the ASC can act as a repository for industry approved resources that are already otherwise available, even if such data maintenance would require a modest increase in fees charged to market participants.

We understand that the ASC and other regulators have provided guidance on the required KYC forms, for example, to registrants raising money for issuers pursuant to available exemptions from the prospectus requirements. It would be helpful for issuers to also be aware of these KYC and other fundamental registration requirements when working with registrants, particularly minimum expectations of the information to be obtained from investors.

While we understand that the business trigger for dealer and adviser registration is a factual test, it would assist market participants if there was more real-world guidance on when registration is likely required for capital raising activities by a company or its executives in the start-up or growth phase. The examples provided in the Companion Policy to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* may be difficult to understand without expert legal assistance. Illustrative examples in an easily understandable format would be most useful.



(b) Informational resource for investors investing in Alberta businesses

Similar to our comments above with respect to businesses, the ASC could be a valuable resource for individual investors. While information on other exempt financings could be helpful, investors also need easily accessible and understandable information on the qualifications for prospectus exemptions and the risks involved in early stage investments.

We understand that registrants and issuers must expend significant resources on lawyers and compliance experts (who may be in short supply) to assist with capital raising activities. One possibility may be the creation of a “securities regulatory” helpline, where either ASC staff or a staff of a third party supported by the ASC act as a resource to small businesses and their investors – a form of small business legal aid center. An organization that provided consistent advice, answers to frequently asked questions and potentially plain language checklists on basic capital raising and registration requirements would be helpful. A group of this nature should be able to facilitate access to information and function at a lower cost than multiple individual professional advisors (although individual legal sign off should be recommended).

(c) Expanding the accredited investor exemption to include educated, experienced investors

We generally support the potential of expanding the existing definition of an accredited investor. We would be open to alternative qualifications specifically limited to persons who have obtained one or both of the CIM or CFA designations, or alternatively other educational qualifications that would be required for an individual to obtain registration by the CSA as an adviser. If such alternative were available, the policy rationale would shift to recognize both the ability to withstand loss and / or the ability to understand loss.

In addition, we note that as a result of corporate or tax structuring, in certain instances there may be entities or individuals forming part of a single economic family unit that do not technically qualify as an accredited investor. While the entity could apply for exemptive relief in those circumstances, it could be open to staff to instead provide additional guidance and grant accredited investor status.

We understand that some registrants may be unclear with respect to the level and type of evidence of status that is required to be collected, and additional practical guidance for the individual accredited investor categories would be welcomed.

(d) Addressing the compliance challenges associated with confirming accredited investor status

With respect to qualification as an accredited investor, we agree that it would save resources for both issuers and investors if there was a secure central repository or other trusted central party where an individual’s status as a confirmed accredited investor was housed. We understand that some electronic platforms that currently facilitate information gathering from accredited investors already exist, and thus

regulators can and should play a leading role in bringing industry groups together to find a solution to this particular compliance challenge.

(e) Registration exemption for finders

We understand there may be significant confusion among market participants with respect to the circumstances in which a finder may be considered “in the business” of trading securities and thus required to be registered.

Once an issuer has exhausted the personal network of its executives, one would expect it to be difficult to raise additional capital without the use of a finder or registrant, the fees for which are paid by the issuer. For the reasons set out in the Consultation Paper, obtaining the services of a registrant is not always an option for smaller deals (and given the expense, makes a small capital raise unfeasible). Some finders may not themselves be able to register or wish to be subject to ongoing registrant obligations.

It is also often the case that deals are introduced to potential investors from other investors in their network, including those that invest in private issues frequently such as family offices or ultra high net worth individuals. There is a risk that such investors might themselves be thought of as “finders” subject to registration, although there is usually no policy rationale for such a conclusion. As a result, additional clarity with respect to financing amongst a group of accredited investors (often, angel investors) would be helpful to investors making significant capital allocations to the Alberta market. While we are definitely mindful of the concern about investors being pressured or encouraged to make unsuitable investments, capital flow in the Alberta exempt market is often based on pre-existing business relationships, and it could have a negative impact if people are afraid to introduce investment opportunities to their network because they are worried about being characterized as a “finder”.

Consideration could be given to a registration exemption for capital raises by an issuer who has utilized the services of a finder under a specific threshold (e.g. \$1 million) for sales to accredited investors, which would make the compliance burden of such an issuance considerably smaller for the issuer. Pursuant to ASC Notice “*Continuation of ASC Blanket Order 31-505 Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions*”, staff is continuing to consider alternatives or amendments to Alberta’s existing “Northwestern Exemption”, and this consultation could inform the resulting registration exemption. The current cost to using a registrant is not often supported by the amount raised in the issuance and may be discouraging companies from trying to raise capital altogether.

(f) Reducing compliance costs for registered dealers when dealing with accredited investors

We do not believe that a change to the qualification for a suitability waiver is necessary at this time. Our concern is that adding experience or other financial measures to the test would actually increase the compliance burden; while the dealer may not need to complete a suitability analysis, they would need to keep meticulous records of eligibility for the suitability exemption which may need to be repeated for each subsequent investment. We are aware of dealers that have expressed concern that

continuing to increase the regulatory burden and associated costs for Exempt Market Dealers may result in their closure, particularly with respect to smaller dealers. We understand this is reflective of the fact that the majority of earned fees, generally 60-80%, are paid to the dealing representatives with the balance to the dealership.

It would reduce the compliance cost for dealers if there was an easier method to identify common deficiencies by dealers in the capital raising process so that they could be more easily avoided. While regulators often speak to compliance deficiencies in annual and other public reports, such deficiencies are not shared in real time, and it is usually only after the time and expense of a regulatory audit that registrants are made aware of staff's views. If common deficiencies and staff's expectations, including with respect to books and records, were updated in real time on the ASC's website, it would facilitate collaboration between staff and industry to strive for best practices. In addition, in a focused compliance review relating to capital raising (or other reviews) where terms and conditions are not recommended, there is little ability for a dealer to dispute staff's findings of deficiencies which remain on its record. It would be helpful to have a formal internal escalation process (that does not result in a hearing) to resolve misunderstandings or disagreements.

In connection with striving for best practices, registrants would benefit from an easily accessible consolidated list of current regulatory staff notices and guidance for ease of reference, as well as from an increased use of published FAQs and more frequent staff notices addressing hot topics. The rules/ instruments could be presented in a consolidated format rather than by amendment. We would encourage the ASC, together with its CSA partners, to identify to market participants which guidance will be the basis for policy implementation and written into rules. It is also helpful for registrants when regulatory guidance acknowledges and identifies similar or overlapping regulation by other regulatory bodies. As an example, ASC Notice 31-701 *Account Opening Assistance* specifically references CASL, FATCA and AML considerations that impact the KYC information being collected.

(g) Addressing other registered dealer compliance burdens

We agree that there could be time and cost savings if the ASC were to accept alternative means of demonstrating proficiency in the context of a registration application. In lieu of the specified exams, staff could take more of a risk/reward based approach and examine each individual's personal history and work experience. In order to obtain economies of scale, staff could provide anonymous information on its website with respect to acceptable alternative experience. Principally for new registrants, it is difficult to know at the commencement of an application whether or not their experience will be acceptable, and the process for exemptive relief is expensive, time consuming and difficult to predict. It would also ease the compliance burden on registrants (and issuers in need of registrants) if there was a more definitive time period for reviewing registration applications and eliminate the need for registrants to pay hefty novel application fees for consideration of non-standard credentials.

We would also support the suggestion to eliminate the requirement for dealers to provide similar documentation to different regulators at different times by developing a registration portal for information sharing purposes. Similarly, registrants are required to



provide the same information to the same regulator more than once, such as for risk assessment questionnaires. It could save registrants both time and money if such surveys or requests were already populated with information that can be pulled from existing CSA or reporting databases, such as SEDAR or previously filed Forms 45-106F1 *Report of Exempt Distribution*. While updates to such systems have been identified as regulatory priorities, the administrative burden placed on dealers who are required to update and upload forms on NRD is considerable.

We also understand that dealers and other registrants find the outside business activity reporting requirement particularly onerous, and it may be difficult for them to assess the actual level of risk and potential conflict associated with particular outside activities without further information from regulators.

Some compliance burden could also be alleviated if regulatory forms could be better integrated with reputable accounting software. For example, if Form 31-103F1 *Calculation of Excess Working Capital* were integrated with such a program it would allow for more efficient ongoing monitoring and reporting of a firm's capital position. In addition, reputable search entity and software companies could apply to the regulators for access to certain areas of the NRD and CSA databases to help reduce redundant steps for registrants (e.g. for employee background checks or AML identity verifications). There may be opportunities for the ASC to link initiatives of this type in conjunction with its consideration of the Proposed National Systems Renewal Program Rule.

Another potential area to review relates to the prompt delivery requirement for trade confirmations by dealers.² When registrants sell private securities, we understand that it is common practice for issuers to take up to a month for a trade to settle after submission. Additionally, the requirement to provide a "prompt" trade confirmation may represent a significant cost and resource burden to the dealers with minimal benefits to clients. The information could be provided in an alternative fashion, such as in quarterly statements, particularly when private securities may not have a market value, typically have lock up periods and are illiquid.

If dealers or other registrants could be assigned a relationship manager, the individual at the ASC would be able to quickly get to know the registrant and work with them to establish best practices and act as a knowledge resource for best practices advice.

(k) Facilitating a semi-public market that allows secondary retail trading by non-public companies

We understand that a gray market already exists for some public oil and gas issuers in Alberta, but that the genuine issue is not facilitating a market for trading but locating willing buyers and sellers. While it may be possible to attract secondary purchasers by providing some level of mandatory disclosure on private issuers, we do not know whether the potential benefits of the additional liquidity would outweigh the new

² As required by s. 14.12 of NI 31-103

disclosure burdens placed on issuers. If such a market were to develop, we think it important for transparency purposes that insider trading reports be required.

(l) Exploring enhanced institutional liquidity for private markets

We do not have information to support an inference that a more centralized alternative market would assist private Alberta businesses in connecting with potential investors, however, we are supportive of market driven solutions to this initiative.

(m) Fostering crowdlending and peer-to-peer lending

While crowd lending and peer-to-peer lending may be viable channels to satisfy financing needs of businesses and provide investors with an investment alternative, the individual amounts that current regulations restrict such financings to may not be sufficient to satisfy the issuer's fiscal requirements. The ASC should continue to monitor these, and other crowdfunding regimes around the globe, to determine how to structure these channels to attract more investment.

In an Issues Brief prepared by CFA Society Singapore entitled "Investment-Geared Crowdfunding – Sourcing Equity and Debt Funding from the Crowd: Developing a Regulatory Framework³" the authors suggested that investment-g geared crowdfunding requires a comprehensive regulatory framework to develop its potential. Such a framework would include aspects such as transparency by issuers and platforms, due diligence and other safeguards for investors and an SME-only access and focus. The brief includes a cross jurisdictional study of certain jurisdictions and their crowdfunding framework, some of which include a complaint and redress mechanism. Canada's crowdfunding initiatives may benefit from the experience of other countries with respect to enhancing our current framework.

Concluding Remarks

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future.

(Signed) *The Canadian Advocacy Council of
CFA Societies Canada*

**The Canadian Advocacy Council of
CFA Societies Canada**

³ "Issue Brief: Investment-Geared Crowdfunding - Sourcing Equity and Debt Funding from the Crowd: Developing a Regulatory Framework" (March 2014), online CFA Society Singapore
<www.cfasociety.org/singapore/Linked%20Files/issue-brief-crowdfunding.pdf>

Sept. 20, 2019

TO: Denise Weeres, Director New Economy, Alberta Securities Commission

FROM: Larry Radomski (ThreeSixty Financial), and Chris Fetterly, PhD (Alchemi Technologies Inc.)

SUBJECT: ASC Consultation Paper 11-701 Energizing Alberta's Capital Market

Dear Ms. Weeres,

We were delighted to see the in depth call from the ASC regarding energizing Alberta's capital market. With respect to the brainstorming ideas in this document, we would like to outline how an equity crowdfunding platform in Alberta would benefit from changes that the ASC can help implement.

Our summarized recommendation to the ASC:

Enable the democratization of the investment field via progressive equity crowdfunding policy in order to encourage the average retail investor to place a portion of their portfolio into start-ups, scaling companies, small business, and tech companies.

Background and rationale:

More angel investors and VC funds would be a clear value-add to the Alberta capital market, however, if we allow and make start-up investing more user friendly to retail investors, this will add a substantially larger **new pool** of funds that can be accessed by tech start ups. This is the essence of our desired approach to energizing Alberta's capital market, access to **new** capital via equity crowdfunding.

The exempt market already serves as an example of democratizing larger private deals. With effective policy change average retail investors have an opportunity to participate and diversify from the traditional publicly traded investments. Investors want diversification from oil & gas and real estate – now we just need to allow them access to new local markets that will diversify Alberta's economy. This new pool of capital comes with the added benefit of extending beyond the metro cities of Edmonton and Calgary. As small town startups in Alberta (Bowden and Fox Creek for example) have a very limited investor pool in their local community, Albertan equity crowdfunding would provide access to a much wider scope of investors.

"Investors who have built capital through traditional means, like real estate and energy, need to be effectively engaged, educated, and presented with the portfolio opportunities of technology investments."

- Edmonton Advisory Council on Startups

We agree that a purpose of Securities Commissions is to protect investors. However, overprotection stymies the market and we are concerned that the market will go where the advantages are greater. The UK and the US are charging ahead with equity crowdfunding in addition to their already well established private exempt markets. We suggest a proper blend of investor restrictions combined with open markets to enable equity crowdfunding platforms to help energize and diversify Alberta's economy.

Equity crowdfunding is necessary for Alberta and Canada to keep up:

A low friction implementation of an equity crowdfunding portal based in Edmonton addresses the highest priority concern among entrepreneurs in our community and Alberta at large: there is a significant early stage funding gap. Part of this is due to the limited means to access a broad cross-section of investors in Alberta. Access to capital is top of mind in our Edmonton community for startups and yet with a large pool of accredited investors in Alberta, raising capital is still a problem. This is echoed in our community by multiple agencies and grassroots organizations.

We ask the ASC examine the large amount of capital sitting in Albertan RRSP and TFSA accounts. These accounts are typically sedentary, allocated to low yielding GIC's or wallowing in savings accounts. The use of a small portion of registered funds for retail investors would be minimal risk exposure and allow for effective diversification of portfolios. If we truly want to energize the Alberta capital market, equity crowdfunding is a clear path forward.

To implement an equity crowdfunding portal in Alberta, we need:

- The ability to invest with registered funds (RRSPs and TFSAs) into local technology companies
- Reduced regulatory friction to pre-vet deals posted on an equity-crowdfunding portal
- Expanded definitions of Accredited Investor definitions to include current definition of eligible investors

Please find below several comments to the ASC conversation/brainstorming points:

(1) ASC Brainstorming ideas:

- Informational resource for Alberta start-ups and early stage businesses on capital raising options (pp 24-25)
- Informational resource for investors investing in Alberta businesses (pp 25)

"Although ASC staff cannot act as legal or other professional advisers to market participants, ASC staff could host information sessions and webinars on crowdfunding and common capital raising options as an educational resource for entrepreneurs. To allow for broader dissemination, the ASC might also pursue a series of YouTube or similar videos."

A crowdfunding portal like the one we mention will not succeed organically as a board to post deals on, it must be coupled with sufficient investor and entrepreneur education. Indeed this is the power of a public portal, it brings the local standard of investor readiness out of private meeting rooms and into the open market where all companies can see at a glance

what is needed to achieve capital raising success. With links to the ASC and other educational opportunities within the province, the ASC as an information resource would bolster efforts to establish a platform like the one proposed as it adds a neutral third party voice to the conversation. Providing access to the ASC's database of exempt financing would allow new investors to rapidly assess comparables and is a worthwhile idea regardless of usage by equity crowdfunding portal tie-ins.

(2) ASC Brainstorming idea:

- Expanding the accredited investor exemption to include educated, experienced investors (pp.26)

Currently, an eligible investor can invest in the exempt private market providing an offering memorandum is produced by the startup company. These memorandums are expensive to produce and at the stage of the early-stage deal, may not make sense considering the rapid iteration of both product and business model. The ASC would do well to access this additional market capital by expanding the accredited investor exemption to the eligible investor market and coupling it to specific educational experiences. The ideas put forth by the ASC both on suggested training regimes and ability to withstand loss are suitable for this expansion. This coupled with an identifier system would facilitate easier on-boarding and registration experiences for an equity-crowdfunding portal in Alberta.

(3) ASC Brainstorming idea:

- Addressing the compliance challenges associated with confirming accredited investor status (pp.26)

The ASC's suggestion of leveraging technology to establish status would be highly beneficial, specifically to an equity crowdfunding portal. Coupled with an expanded definition, this allows for the production of specific identifiers for accredited investors which fits well with the online nature of an equity crowdfunding portal. Investors would be prompted to register with this identifier and if found to not have an identifier, would then be pointed to various community and online resources to acquire training and identification. We recommend against the idea of one bank (ATB) as mentioned as hosting this status registration vehicle.

Please find below comments to the ASC that were not specifically addressed in the ASC call-out paper.

- (1) Allow the use of registered funds (RRSP/TFSA) to be used to hold securities in the exempt market via equity funding crowdfunding platforms. Registered funds are typically long term holds, by permitting the use of registered funds to hold private equity at as a small portion of an investor's portfolio, an investor is exposed to little risk in the context of their entire portfolio.

This is a progression of what we are seeing with the ease of use of platforms like Wealthsimple which makes holding and selling investments in registered funds seamless. With sufficient education and perhaps requirements for training, a crowdfunding platform

could unlock latent capital in the province and facilitate impact investing in the local economy.

Thank you for considering our comments.

Sincerely,

Larry Radomski (ThreeSixty Financial)

Chris Fetterly, PhD (Alchemi Technologies Inc.)

September 20, 2019

To: Alberta Securities Commission
Attention: Denise Weeres,
Director, New Economy
new.economy@asc.ca

Dear Ms. Weeres,

Thank you for the opportunity to provide comment regarding the ASC's consultation paper 11-701, *Energizing Alberta's Capital Market*. Alberta issuers and investors are key to our firm and we recognize the ASC's role in committing to a protected marketplace while embracing a progressive approach to legislation and the requirements of its registered participants. It is widely recognized that Canada, and Alberta in particular, must make greater avail of its substantial human resources, along with the natural resources to which we all have at times, grown dreamily accustomed.

The ASC's consultation paper is broad in scope and highlights some key areas in which we as a firm are currently engaged, both internally and externally, in applying new ways of achieving our business goals within a regulatory framework.

Though we may have missed our opportunity to meet one-on-one with ASC staff to discuss in detail, we remain open to do so at anytime going forward.

Comments follow numbering provided by consultation paper 11-701.

Best,



Anthony Couture
Chief Compliance Officer
Silver Maple Ventures Inc.
(FrontFundr)
300-289 Abbott Street
Vancouver, BC, V6B 2K7

6. Existing regulatory burden reduction efforts

Further, the ASC is currently working on an initiative designed to improve access to capital by start-up businesses through a harmonized instrument addressing start-up crowdfunding. We contemplate both a prospectus and a dealer registration exemption designed to facilitate crowdfunding for start-up and early stage businesses. Certain other jurisdictions have local blanket orders to facilitate this and the ASC already has a prospectus exemption to facilitate start-up crowdfunding. The proposed project would build upon these initiatives by introducing a corresponding registration exemption, by harmonizing and extending the regime across jurisdictions, and by potentially expanding the circumstances under which the current exemptions are available.

We are aware of the efforts by regulators to harmonize the crowdfunding regime in Canada. We are not in agreement however that unregistered portals should have the ability to sell the securities of private entities. Portals are not geared toward market stewardship and the public is confused about their role in the industry.

Further thoughts:

1. Removal of investment limits for CF investments, but provide greater best practice and policy guidance for registrants on determining suitability and assessing the ‘ability to absorb loss’ (see 7 (c) for more context in relation to Accredited Investors).
2. Working with government and registrants, create a national tax-credit system for small business development.
3. Allow for limited secondary trading opportunities for retail investors currently made available to Accredited investors and insiders of an issuer (see 7(k)).

7. Brainstorming ideas

(a) Informational resource for Alberta start-ups and early stage businesses on capital raising options

The ASC could lead an industry-sponsored initiative to develop, together with willing law firms, an industry-standard master subscription agreement for private financings. Industry led efforts would be necessary to ensure widespread adoption.

We agree that a simplified, universalized onboarding framework utilized per exemption would be welcomed by investors and the industry. As the onboarding documentation (subscription, RAF, etc) are risk mitigating tools for an issuer and rights indicators for investors, it is difficult to navigate a proposal such as this for reasons concerning liability. But, an effort in this area would reap benefits from the public’s perspective.

(b) Informational resource for investors investing in Alberta businesses

Although ASC staff cannot act as financial advisers, some market participants have suggested there might be a role for the ASC in increasing investor understanding respecting the exempt market and considerations when investing in start-up and early stage businesses.⁶⁶

Adding to and consolidating the information provided within the 45-106F1 would materially assist in collecting relevant market information.

(c) Expanding the accredited investor exemption to include educated, experienced investors

Based on the filing of reports of exempt distribution, the accredited investor prospectus exemption is the most commonly used prospectus exemption and the exemption under which the most capital is raised. Under that prospectus exemption, an issuer may sell securities to any person or company that qualifies as an “accredited investor”⁶⁹ without any prescribed initial or ongoing disclosure.

I would agree that the introduction of an SI exemption (Sophisticated Investor) would be interesting, but may not be material if the investor does not have the capital to participate in a traditional AI round to begin with (over 25k on average per investment). Whether sophisticated or not, it would not be suitable for the investor to place everything into one basket. Education does not trump ability, from the standpoint of avoiding undue loss.

Unless an individual is using the skills they have acquired from specific financial education on a day-to-day basis, then the original accreditation becomes less reliable over time and ‘refreshing’ this qualification is likely expensive and impractical for the average investor. Isolating which program in fact qualifies in relation to a specific investment also seems relevant but difficult to qualify at the time of a trade instruction.

Financial education informs a registrant on a client’s investment knowledge, as defined by NI31-103, and helps identify suitability beyond ‘ability to absorb’ - within any applicable investment limitations, per jurisdiction. Enhancing an investor’s education is a recognized goal of a regulator and the creation of an informal ‘test’ for investors through a regulator could assist in fulfilling both an educational mandate and be evidence to support a client’s KYC more fully.

The AI expansion question triggers other questions. Do AI invest greater amounts solely because they have greater ‘ability to absorb’, or because they have greater opportunity? The ASC, and all regulators across the country by extension, holds significant ability in unlocking the power of the private markets for retail investors by looking more closely at legislation which favors accredited investors beyond the question of ability to absorb, but to which the ability to absorb philosophy has had direct impact. Specifically:

1. AI have greater access to complex deals which require greater amounts of capital.
2. AI have greater opportunity to transfer or sell holdings to insiders or another AI.
3. In most cases, an AI’s ‘ability to absorb’ is measured as a best practice, whereas ‘ability to absorb’ for retail is defined by policy.

Creating a market which is more equitable across a spectrum of investor types without sacrificing protective measures should be a focus for all regulatory agencies. Appropriately so, and as mentioned, the exempt market is governed by a best practice of evaluating private holdings within a philosophy of ‘ability to withstand loss’. It is recognized that the exempt market is the house within which risk resides. To better diversify away from risk, the opportunity provided within the public markets should be mirrored more fully within the private markets, with additional tools made available for all investors. In adding an ‘ability to access gain’ across the market as it applies to available exemptions would allow for greater opportunity for small investors while helping diversify a portfolio within the context of private holdings. This greater opportunity for retail would level the

playing field and relieve the dependence on a small number of AI to move the most capital in the private markets. In aggregate and spread over a much vaster populace, retail investment capital would dwarf that of AI in size and applicability – a more diverse issuer base would benefit from a greater and more diverse capital base.

(d) Addressing the compliance challenges associated with confirming accredited investor Status

Privacy issues and the ability to protect personal information is a key concern for online dealers looking to technology in establishing cost savings. Collecting more information may simply create a more tempting target for would be cyber thieves.

By no small measure, the financial industry is in the business of selling and providing trust, for both client and industry professional. The professional must guard against misrepresentation and the client, by extension, must also avoid misrepresentation with the information they provide in assessing an investment. Both parties have a responsibility in providing information that is factual in order to work together in trust.

(e) Registration exemption for finders

The legislation surrounding referrals and finders is certainly cumbersome, and if the Proposed changes to NI31-10 is at all indicative, regulators are having a difficult time pushing this specific item neatly into one box. The genesis for restrictions and defining ‘in the business of trading’ is clear, but for the needs of on-the-ground participants (as pointed to regarding rural communities et al), capital requires avenues in which to move more freely, and generally, capital moves more freely amongst individuals that have familiarity and history.

This does not mean that it must move about unmonitored between unknown entities. Applying a registration component to ‘finders’ certainly appears manageable and perhaps desirable under the current system. Whereas a dealing representative must be sponsored by a firm to sell securities, a finder could similarly be sponsored by a registrant through NRD to authorize an individual’s marketing or referral activities within their jurisdiction and to ensure they do not undertake trading activities. In effect, a new registration category could be created to both expand employment opportunities within the exempt market while also ensuring a system of greater compliance toward ‘finding’ investors.

(g) Addressing other registered dealer compliance burdens

Providing increased clarity and consistency with respect to expectations in developing a rulebook for exempt market dealers is interesting. Adding greater clarity through more frequent companion policy updates may be the best route for doing so, as 31-103 already provides a ‘rulebook’ base from which to work.

ASC Staff Notice’s such as *33-706 Policy and Procedures Manual – Reference Resource*, do much in providing practical guidance on a registrant’s responsibilities within the market.

(h) Facilitating angel investment funds

Providing a framework in which angel investment funds may operate freely without regulatory oversight would promote an unequitable playing field, as highlighted in (c), but also place AI capital unnecessarily at risk.

An unfortunate by-product of providing greater flexibility to AI, through exemption and best practice, is to engender a ‘club’ aspect to exempt market investing. There is an opportunity to expand the tools all investors seeking to diversify and gain from involvement in the private markets, as highlighted in (i) below.

(i) Facilitating the development of a retail, publicly-traded fund focused on innovative businesses

The creation of a publicly traded fund may bring more capital to the start-up world but it may also simply be putting more capital at risk. As a publicly traded entity, an investor would have the freedom to place their entire portfolio into the fund. Unadvisable for any investor. It would be better to have a private market universe mirror the public markets in some measure, but the management and monitoring of this universe should reside with registrants and their principal regulator, whom have collectively built substantial knowledge on the mechanics of the private markets. Tools for diversifying public holdings are standard in the market (ETF, mutual funds, etc), but difficult to construct within the private markets due to the limitations of available exemptions. An investment fund vehicle for the private markets could be fully realized however by tailoring the following exemptions:

1. Removal of non-redeemable investment fund and investment fund impediments under 45-106, 2.9 Offering Memorandum, for applicable jurisdictions.
2. Removal of investment fund impediments under 45-535, part 8 (c).

(k) Facilitating a semi-public market that allows secondary retail trading by non-public companies

Secondary trading could be introduced in a limited capacity through registrants to qualified investors, either through expansion of *45-102 Resale of Securities*, to include the securities of private offerings outside the restriction period. Unlike a public market, the ‘trade’ or resale in securities would not be supported through a bid/ask mechanism or through traditional clearing frameworks utilized by the public markets. Nor should this secondary trading relieve investors of the need to have a long-term goal with their private holdings - where applicable (non-yield), - so as to not undermine the value building required of most young companies, or create a market for speculation. Secondary trading within this context simply allows retail investors an opportunity to divest of their holdings should the exigencies of life require them to do so (down payment for house, major illness or surgery, etc). These are freedoms currently allowed to AI and insiders of private companies but not to everyday investors. In our research, this is one of the factors in deciding to not place capital within private offerings by retail clients.

Liquidity as it relates to concentration is also a consideration. Best practice suggests investors should only have a % of their portfolio devoted to private holdings. However, with greater opportunity to hold these securities and the generally longer time period to realize or dispose of those securities – naturally creates a bottleneck in the distribution of private securities overall; investors can only hold so much for so long and have little opportunity to ‘free up space’ for other investments to place that capital to other uses - perhaps even to a company at an earlier stage to their original investment.



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September 20, 2019

Denise Weeres
Director, New Economy
Alberta Securities Commission
New.economy@asc.ca

Dear Ms. Weeres:

Re: ASC Consultation Paper 11-701 *Energizing Alberta's Capital Market* (the "Paper")

The Investment Industry Association of Canada appreciates the opportunity to comment on the Paper. We agree that the health of Alberta's capital market is a key factor in the strength of the Canadian capital markets and the Canadian economy.

As such, we support efforts of the Alberta Securities Commission to identify and mitigate factors within its purview, that may create barriers to growth in the capital markets in particular and the economy in general, and to identify opportunities to create policies or programs to enhance the vibrancy of the capital markets in Alberta.

We are pleased that the ASC is not only examining the conventional aspects of securities regulation in its efforts, and also looking to how it can use and adapt regulation to accommodate and leverage new technology that can "improve capital market efficiencies, reduce costs, and provide investors with better information and analysis." The role of technology is changing the nature of how the capital markets are functioning, from the client facing perspective, as well as in respect of operations. It is critical that regulation adapt to the new realities of how clients interact, and expect to be served by financial service providers, and the way in which technology based solutions can be regulated to better serve these investors while maintaining a level playing field among service providers, so that clients are not encouraged to engage in regulatory arbitrage when seeking their financial solutions.

Existing regulatory burden reduction efforts

We recognize and support the ASC's on-going regulatory burden reduction efforts as articulated in the Paper. We identified certain of these efforts as important in our March 1, 2019, response to the Ontario Securities Commission consultation on burden reduction, which is attached to this submission.

Most of the benefits to be achieved by the reduction of regulatory burden must be done on a national level, owing to the national nature of such regulation, and the interjurisdictional nature of the capital markets. As such, individual provincial efforts to reduce the regulatory burden must be taken in a coordinated manner with all Canadian regulators in order to be effective. Piecemeal regulatory changes will not effectively reduce the burden, and may in fact create inefficiencies where they create differences among jurisdictions.

In particular, we have either submitted, or will be submitting comments supporting the initiatives described below, further to and in certain cases, independent of, the CSA request for comment process.

- (a) review of potential alternatives to the prospectus offering system for public companies;
- (b) facilitating at-the-market prospectus offerings through the short-form shelf prospectus system and liberalizing existing conditions;
- (c) revisiting the concept of “primary business” which triggers a requirement for financial statements in a prospectus;
- (d) modifying the requirement for a business acquisition report and the accompanying financial statements when a public company acquires or proposes to acquire another business (this is in addition to the adjustment in the threshold that was previously introduced for publicly traded “venture” issuers);
- (e) revisiting certain continuous disclosure requirements including eliminating duplicative requirements and focusing required disclosure;
- (f) enhancing the ability to electronically deliver documents to investors;
- (g) revising the market data pricing requirements to require specific comprehensive justification of fees, and facilitate more transparency in increasing and creating new market data fees.

We also reiterate our concerns with certain elements of the Client Focused Reforms as noted in our response dated October 18, 2018, to the June 21, 2018 proposals. In particular, we are concerned that the proposed KYP requirements will present significant challenges for the industry by significantly limiting firms’ discretion in how they evaluate securities on their shelves. As we noted in our letter, the extensive, prescriptive list of factors to consider, combined with language that appears to require a security-by-security analysis would make it impractical, if not impossible for many firms to maintain open shelves with sufficient product choice to serve a variety of clients. This would negatively impact clients’ portfolios, access to advice, product innovation and the capital-raising ability of Canadian firms, particularly venture issuers with higher risk profiles. Given that the existing suitability requirement would ensure that the advisor understands any specific product recommended to a client, the obligations of individual advisors to have a high-level of understanding of all the products on a firm’s shelf is unrealistic and unnecessary, particularly when such products may be outside the advisor’s proficiency or ability to sell. Implementation of the proposed provisions would represent a significant burden, contrary to the objective of energizing Alberta’s capital markets.

Brainstorming Ideas

We have the following responses to the Brainstorming Ideas proposed in the Paper.

(a) Informational resource for Alberta start-ups and early stage businesses on capital raising options

We support the idea for the ASC to provide entrepreneurs with information on its website to help them navigate the capital raising process. Initiatives such as developing and posting easily fillable forms in Word and/or HTML format would add efficiencies to tasks that do not require expertise.

We also support the creation of industry standard master subscription agreements for private financings, provided they are not mandatory, as issuers and dealers will require flexibility to design such forms to accommodate the circumstances of each deal. Providing basic template agreements will increase efficiencies and reduce professional costs for issuers, while helping to ensure that agreements will be acceptable to regulators.

We are concerned that the proposal of the ASC to maintain a list of professional advisors on its website may result in liability or costly civil action should problems arise in the relationship between a listed advisor, or if the advisor is listed despite having civil or criminal claims against them. While the ASC may not be found liable in such circumstances, the resources that may be required to dispute such claims would not justify any convenience of providing a listing. Information regarding professional advisors is readily available on the internet and through other sources, and is not required from a regulator, where listing may imply endorsement.

(b) Informational resources for investors investing in Alberta businesses

It would be helpful to provide easy access to the ASC's existing database of exempt financings to enable insight on the size and nature of financings being reported to the ASC. Currently the British Columbia Securities Commission (BCSC) provides this type of data on their website. We recommend that the ASC use the BCSC database as a model for such disclosure.

We do not, however, believe it would be advisable to require additional information that is not currently required to be filed with the ASC in respect to private financings. There may be, in certain circumstances, sensitivity about publication of this information from a confidentiality or competitive perspective. We recommend allowing for optional disclosure, which would, if provided, assist firm in establishing pricing for CRM reporting where information is stale-dated.

(c) Expanding the accredited investor exemption to include educated, experienced investors; and

(d) Addressing the compliance challenges associated with confirming accredited investor status

It would be helpful to expand the accredited investor exemption to include educated, experienced investors, provided the standards are clear and easy to administer. Previously, we have expressed concerns about the compliance burden and uncertainty in ascertaining whether investors meet the proposed standard. If, however, technology could be leveraged such that investors could answer a set of questions, and provide relevant information which would ascertain their compliance with criteria set by regulators, and allow them to self-certify based on their answers, this would be very helpful in opening up the exemption to qualified investors, without imposing an undue burden and risk on dealers and issuers.

The expanded qualifications would have to be clear and verifiable, such as professional accreditation, or education to which the investor would certify. In order to ascertain experience, it may be possible for the technology to require the investor to undertake some sort of test or go through questions that would help determine if they should be accredited.

It is important that this process be administered independently, and that dealers would not be responsible for making this judgment. Any addition of a limitation on the amount that could be invested by such an investor would add complexity to the process, particularly if it is based on a percentage of portfolio test. Given that investors often hold their assets at different institutions, it could be quite difficult to ascertain whether the client would meet that criteria. In addition, the percentage is subject to fluctuations in the value of the portfolio and the asset in particular, so it would be impractical to administer such a test.

The expansion of the accredited investor exemption is appropriate, and would not in any way diminish the dealers' KYC or suitability responsibilities, but would only allow such investors to participate in financings where they meet the criteria of the exemption and where the investment is suitable for the client.

(e) Registration exemption for finders

The IIAC does not support a registration exemption for finders. Based on the results of regulatory reviews, permitting individuals that are not registered, and those subject to lower standards and oversight, such as exempt market dealers to act in that capacity, puts investors at risk. Allowing non-registrants, with no proficiency or professional obligations to deal with investors promotes a non-level playing field. "Finders" do not have suitability or KYC obligations, and despite a prohibition on making investment recommendations, past experience with the Northwest Exemption and in respect of EMD reviews has shown that investor protection is compromised by permitting such individuals to interact with retail investors, as proper screening of exemption availability and suitability and is often not undertaken by the finder, the EMD or the issuer. Where investors (particularly retail investors) are involved, it is important that IIROC registrants with appropriate proficiency and oversight act as intermediaries.

(f) Reducing compliance costs for registered dealers when dealing with accredited investors

We do not support waiving KYC and suitability exemptions for accredited investors with additional investing experience. As noted in (d) above, we support a technology facilitated self-certification to confirm an investor's status as accredited. This would reduce compliance costs by eliminating the completion, review and sign-off procedures applicable to the current long form exemption questionnaire.

The investor status as an accredited investor, even with additional experience, should not exempt them from the protections afforded by the advisors' KYC and suitability obligations.

(g) Addressing other registered dealer compliance burdens

We do not support the proposal to permit part-time compliance officers. The current regulatory requirements are too significant for a part time individual to oversee, and the requirement for a CCO to be available during market hours is incompatible with a CCO acting for multiple firms.

We support any means of improving coordination among CSA jurisdictions in respect of exam schedules for dealers, and increasing the reliance by CSA jurisdictions on each other. Existing differences in regulation and procedures do not contribute to investor protection, and add unnecessary friction and inefficiencies to what should be a seamless national process.

We also support measures to eliminate the need for dealers to provide documents to multiple regulators. As recommended in our submission on CSA Systems Redevelopment, the NRD should be configured to develop a registrant portal to allow both regulators and firms to view and upload documents for examinations and other sharing purposes.

We also believe it would be beneficial to accept alternative means of demonstrating proficiency where applicable. This would assist the industry in attracting qualified people to the industry. However, it is important that regulators provide clear guidelines of what factors could support alternative proficiency standards.

In order to provide more consistent regulation and oversight for exempt market dealers in respect of their dealings with investors, it would be helpful to develop a rulebook for exempt market dealers; and, as importantly, provide regular audits to ensure compliance with the rulebook.

(h) Facilitating angel investment funds

We re-iterate our position that crowdfunding platforms represent a significant and unacceptable risk to the investing public, even if the investors are accredited investors. Given the lack of oversight, KYC and suitability obligations and in-depth review of platform providers, we believe this means of capital raising invites abuse, and will have a negative effect on investor confidence in the market in general. We do not believe that such platforms have been successful in developing viable, legitimate issuers, and as such, the risk does not justify the potential benefits.

(i) Facilitating the development of a retail, publicly-traded fund focused on innovative businesses

We support the development of such a fund, ideally as a public/private investment fund with public funds invested alongside the private contributions. This fund should be managed by professional fund managers rather than government employees, to ensure that the due diligence is objective and that there is no perception of political influence. This would provide retail investors with confidence and incentive to invest.

(j) Further facilitating global markets

Rather than focusing on foreign jurisdictions, barriers to capital flow in Canada should be addressed. In particular, the translation requirement for prospectuses filed in Quebec represents a significant barrier to capital raising in Canada. The time and cost burden of the translation requirement deprives issuers of the full range of Canadian funding opportunities, and investors in Quebec of the ability to participate in opportunities provided to other Canadians.

(k) Facilitating a semi-public market that allows secondary retail trading by non-public companies

Given the size of Canadian markets, it is unlikely that there will be a critical mass to make this a success. Past efforts undertaken by Canadian marketplaces have not met with success, partly due to the administrative and cost burdens put on participating dealers.

(l) Exploring enhanced institutional liquidity for private markets

In general, if issuers seek liquidity, they will move to fully public markets, and do not require this intermediate step.

(m) Fostering crowdlending and peer-to-peer lending

We reiterate our concerns about investor protection, expressed in previous submissions regarding crowdfunding platforms. Although crowdfunding may be appropriate for small ventures, where there are individual investment limitations, the lack of significant oversight of the crowdfunding platform operators presents a significant risk to investors in particular and market integrity in general. Permitting platforms to operate without significant oversight, while investors do not have the benefit of registrants evaluating suitability represents a material loophole in the regulatory system that could become a haven for fraudulent activity and investor losses. This would diminish the integrity and confidence in the capital markets.

Additional considerations

Members suggested that as part of the project to examine electronic delivery, the requirement for trade confirmations be examined in the context of an access = delivery model. Investors should be able to establish whether they choose to receive trade confirmations, or if they wish to utilize their online access to track trades in their account. A choice of an electronic notice prompting investors to examine

their accounts (notice = delivery) or a straight access = delivery model should be permitted, with the investor being able to request a full trade confirmation with all the applicable information at any time.

Thank you for considering our comments. If you have any questions, please don't hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Copland', written in a cursive style.

Susan Copland

September 5, 2019

Attention: Alberta Securities Commission

Re: Energizing Alberta's Capital Market – Startups, Emerging Markets & Private Capital

I am an experienced business man and entrepreneur; I have lived in Alberta most of my life.

I majored in Finance at the UofA and I have recently completed the CSC; a couple of my associates are also taking the CSC and we intend to register and start a dealership. We will be focusing on the private equity and the emerging markets sectors.

I am also in the process of starting a new business venture and we are looking to raise capital to start the new business.

We were initially planning on setting up operations here in Alberta but we are now planning on relocating to BC. This is because we feel that we would be at a *significant disadvantage* if we were to set up either the new businesses or the dealership in Alberta.

Alberta Advantage

To my knowledge the only part of the *Alberta Advantage* that has anything to do with any government policy is the lower provincial business taxes - which is good (for established profitable businesses).

Many startup companies in emerging markets can take many years before they become profitable. Taxes are paid from company profits.

If the company is not profitable, it has no profits.

So a reduction on their taxes on profits is meaningless and provides no benefit to these startup companies.

There is no *Alberta Advantage* for these new and innovative companies.

Alberta Investment Tax Credit

I am aware that the Alberta investment tax credit is the domain of the Alberta government and is not under the control of the Alberta Securities Commission but it does effect the claim of any Alberta advantage.

The Alberta tax credit was the only government program that at least indirectly addressed the problems of local businesses accessing investment capital by providing an additional financial incentive for investors to invest in Alberta companies.

The Alberta tax credit however still did not do anything to directly address the problems with emerging market and startup companies accessing capital.

Now that the Alberta investment tax credit has been terminated, Alberta has become a relatively poor choice to raise capital and / or start a new business.

This means that because BC has a BC investment tax incentive, (a province that has no direct government support or government incentives for new businesses or emerging markets) BC is still a preferable choice to locate a startup business, tech business or financial business than to establish any of these businesses in Alberta.

Crowdfunding

I am familiar with crowdfunding from the perspective of a business looking at raising capital as well as from the perspective of a dealer looking at options for clients to raise money. Crowdfunding is an excellent way to allow local investors to invest in local startups with very little commitment.

Unfortunately the provincial regulations *severely* restrict the amount an investor can invest and the amount a company can raise. I believe the limits placed on the amounts that businesses can raise and the amount investors can invest has prevented crowdfunding from becoming a viable option for financing startup businesses.

Crowdfunding can be a big part of the future of financing for startup companies and emerging markets, but the current regulations make this extremely difficult.

As for “protection” of investors – There are many well established laws that apply to private financing, fraud, money laundering and other criminal activities and these also apply to crowdfunding businesses, investors, and dealers, so I do not see how limiting investment amounts in crowdfunding requires additional *protective* restrictions.

Supply Of and Demand For Private Capital

The number one issue faced by most startup, early stage & private companies is *Access to Capital*; this can be a bigger issue than all other issues combined.

There are many investors that do not qualify as accredited investors or eligible investors who have excess capital that want to invest in private markets and or local companies.

There is a large supply of investors desiring to invest their capital and a large demand for this investment capital. Therefore this is not a case of a lack of supply of capital or the lack of demand for that capital, this is a case of Alberta Securities Commission prohibiting these types of investments and preventing this flow of capital (activity that is considered illegal and subject to fines and imprisonment).

Justification of Restrictions – Investor Protection

The concept of “*investor protection*” is the main justification used for most of the restrictions placed on the private investment markets. It prevents the majority of the population of Alberta from investing in private companies and forces them to invest in large public companies most of which are controlled by international interests...

... (for their own protection).

There are many well established laws that apply to private financing, fraud, money laundering and other criminal activities and these also apply private investors and exempt market dealers.

Investor protection prevents the non-wealthy majority of Albertans from participating in the private investment market. *Investor protection* does not apply to the wealthy small minority of Albertans; this means that wealthy Albertans have no investment restrictions and often they are the only people allowed to invest in startups and most private companies. Due to the fact that only a small percentage of Albertans are allowed to invest in most start up and private companies there is a much smaller pool of investment capital available for the businesses which need the capital. It also means that this small pool of investment capital is controlled by a small minority of investors. With the demand for private capital in Alberta exceeding the supply of private capital in Alberta startup companies are vulnerable to exploitive demands placed on them by wealthy investors.

Protecting the investors implies that the majority of people who are not wealthy / accredited lack sophistication, meaning they are not smart enough to make an informed private investment decision. I am not familiar with any studies that show that wealthy people are smarter than non-wealthy people or that they are capable of making better decisions.

The Alberta Securities Commission’s Policies prohibits the majority of Albertan people who are not wealthy from investing in most businesses. Many of these businesses have the potential to make much higher returns than can be made by investing in a public company.

Prohibiting an Albertan from invest in an Albertan business opportunity that can potentially make them far superior returns to that of the public markets (dominated by international corporations) does not serve anyone but the wealthy minority's best interest.

If you are serious about wanting to enhance access to capital for Alberta companies and to grow the Alberta economy, then ...

STOP making it a CRIME for Albertans to invest in Alberta companies!

Thanks

Ken Partica

kpartica@ironcastle.ca

P.S. - I am very interested in this area and I have many ideas related to promoting access to capital for startup companies and private businesses.

I believe that if the Alberta government and ASC were to prioritize the private sector in conjunction with a stimulus policy that would provide incentive to both the startup companies as well as investors who invest locally including the non-accredited / non-eligible investors that this would be the start of a solid foundation that could be easily built upon.

If you are serious about enhancing access to capital and providing meaningful stimulus to this sector and you can relate to what I have just said then I would be happy to discuss things in more detail.

September 19, 2019

Delivered Via Email

Alberta Securities Commission

Delivered by Email

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Dear Sirs/Mesdames,

RE: ASC Consultation Paper 11-701 Energizing Alberta's Capital Market

We are writing in response to Alberta Securities Commission's Consultation Paper 11-701. We appreciate the ASC's efforts in consulting with the investment community on ways to energize Alberta's Capital Market. We believe we are uniquely positioned as Leede Jones Gable is the only national investment dealer that maintains its head office in Alberta. We have a large retail client base across Canada and have more than 20 years of corporate finance experience, acting as an agent for firms that raise capital on the venture markets. As part of this consultation, we were involved in Investment Industry Association of Canada's ("IIAC") consultation group. We are very supportive of the comments made in IIAC's comment letter.

The capital markets play a critical role in Alberta's financial eco-system. Alberta has a proud history of building world-class public companies that provide investors the opportunity to generate income and create wealth. Alberta has historically attracted significant domestic and foreign investment, largely concentrated in the energy industry.

Alberta is fortunate to have a well-established venture market supported by two stock exchanges; the TSX Venture Exchange (“TSX-V”) and the Canadian Securities Exchange (“CSE”). These exchanges provide a lower threshold for entry to the public market’s and, where successful, companies can “graduate” to the upper tier exchanges that cater to the mature, dividend paying companies.

Capital markets regulators have responded to the 2008 financial crisis and the events that followed with new rules to protect investors from a repeat experience. The financial burden of the increased regulation has largely been borne by issuers and investment dealers.

Obtaining the capital required to launch new businesses is challenging, especially once initial funding sources, such as family and friends, have been tapped. Exchange listing requirements to access public funding have become more complex to navigate and more costly. New business ventures in need of funding struggle to find the capital they require to succeed.

To make the most of the available funding, venture firms are required to move quickly to establish their business in order to capture opportunities and grow revenue. Extensive regulatory requirements, such as filing quarterly financial statements, are costly and time consuming for venture firms and impede the forward momentum necessary for them to succeed. Sadly, the outcome may not be much different from those firms that stay private longer and are moribund because they are capital constrained.

Despite the entrepreneurial talent within Alberta, the capital markets are underutilized, and the result is stifling Alberta’s economy. Reducing the regulatory burden and the time required to complete a public financing will support the growth of Alberta businesses. Our Government can do more to support businesses that build the economy, create jobs and increase the tax base that funds public services.

We suggest the Alberta Government and the ASC implement the following three-point action plan. This plan requires coordination and cooperation across regulatory and government boundaries but will promote healthy financial markets and will result in economic growth.

1. Impose a moratorium on costly new rules and regulation while reducing regulatory burden
2. Establish a registry for sophisticated investors and broaden “Accredited Investor” rules
3. Establish provincial government sponsored venture funds

Impose a Moratorium on Costly New Rules and Regulations While Reducing Regulatory Burden

The recent political will to reduce regulatory burden in Alberta and Ontario is welcomed by businesses. Well-intended rules that develop over time have become a costly impediment on the Canadian capital markets. The complexity and cost of complying with over regulation must be corrected for our capital markets to remain competitive.

Despite these efforts, the ASC, as member of the Canadian Securities Administrators, continues to advance National Instrument 31-103 “Registration Requirements, Exemptions and Ongoing Registrant Obligations”. The proposed amendments add to the already significant rules governing the client relationship in areas such as “know your client” (“KYC”), “know your product” (“KYP”), suitability, conflicts of interest and relationship disclosure.

The proposed changes in NI 31-103 (commonly referred to as “Targeted Reforms”) come fast on the heels of sweeping new rules that were recently implemented under the Client Relationship Model which were adopted in two stages (“CRM” and “CRM2”). Due to the complexity of the changes and the impact on technology used in the industry, CRM and CRM2 required implementation over several years. The need for more rules is an unanswered question; the impact of the new rules under CRM and CRM2 on the client relationship has not been fully evaluated. The additional burden to the financial services industry is likely to exceed any reduction achieved through Bill 4 – The Red Tape Reduction Act.

Comprehensive cost benefit analysis of new regulation has either not been performed or has not been presented on large regulatory initiatives such as CRM2 and the new Targeted Reforms. It is important for such analysis to be performed and presented to the public to ensure added regulation is warranted and to retain industry trust in the regulatory process. In addition, a post mortem review should be completed to assess the actual outcomes and identify any unintended or unforeseen consequences.

The consequences of the Targeted Reforms have not been fully considered. For example, one of the most contentious new rules within the Targeted Reforms is the additional KYP rules. The proposed new rules require that, in addition to the advisor’s need to understand the securities (product) they recommend or include in their client portfolios, the firm must also assess the risk of every security made available to their clients. Establishing and maintaining an approved and defined product shelf will add significant costs for investment firms as they must manage the process of selecting and evaluating securities from the entire product universe (all exchange listed securities), including new issues coming to the market. Thereafter, the firm must monitor and revise their product shelf as conditions or events alter their earlier assessment of these previously approved securities.

New KYP requirements will stifle investment in the venture markets. As many large investment dealers are encouraged to de-risk their business, high risk venture securities are less likely to be made available for advisors to recommend to their clients. Venture firms will lose access to capital and the venture markets will be destroyed.

There must be a moratorium on new regulations while existing rules are reviewed and re-evaluated. New rules must undergo a mandatory and comprehensive cost benefit analysis before the rules are adopted. The consequences of existing and new regulation should be carefully considered such that a balance is achieved between protecting investors, while fostering vibrant financial markets that supports venture companies.

Establish a Registry for Sophisticated Investors and Broaden “Accredited Investor” Rules

Venture companies have come to rely on non-brokered private placement (“NBPP”) offerings to avoid the higher costs associated with preparing a prospectus offering. Other than friends and family, only “accredited investors” can participate in an NBPP; other potential non-institutional investors are shut out even though they have significant investment knowledge, business experience, the financial expertise to perform their own risk analysis or have access to a registered investment advisor that guides their investment portfolio. This limits participation by disqualifying the average retail investor and reduces the amount of capital that can be raised for their companies.

The accredited investor rules allow non-institutional investors to participate if the investor has the financial means to sustain a loss of the entire amount invested in the security, which they must acknowledge. To qualify, an individual must attest that their annual net income exceeds \$200,000 or household income (incl. spouse) exceeds \$300,000 or household net financial assets exceed \$1 million or household total net assets exceed \$5 million.

The NBPP process is cumbersome for an investor. An accredited investor must complete a package of forms that acknowledges the risks involved in investing and documents how they qualify as an accredited investor. In our firm, this package is 28 pages in length and must be completed each time an investor participates in a NBPP. The package includes several representations and acknowledgements for the investor to initial or sign. The NBPP investment must still meet the suitability requirements established for the investor’s account at the investment dealer firm.

Broadening accredited investor rules would increase participation in NBPP. Additional avenues to qualify must include understanding the risks inherent in investing in the venture capital markets, complimented with high level of investment experience or acumen, significant business experience, or access to a registered investment advisor that guides the investors portfolio within defined suitability guidelines.

A “sophisticated investor registry” would make investing in NBPP less cumbersome for investors. When participating in NBPP, the sophisticated investor would simply supply their registration number to their advisor which would be cross checked by the investment dealer to the registry, eliminating the need to complete the massive accredited investor package

There is also an opportunity to educate investors about the risks of investing in early stage venture during the enrollment process. Establishing investor knowledge could include gathering information about the extent of relevant education, investing knowledge and business experience an on-line application complimented with risk tolerance related questions, perhaps similar to the automated account opening processes.

Broadening the accredited investor exemption would increase access to the venture markets with the potential to reduce expectation gaps. Implementing a sophisticated investor registry would make investing in the venture markets less cumbersome. This initiative could be led and implemented by the ASC but would benefit greatly from broader participation of all provincial jurisdictions.

Establish Provincial Government Sponsored Venture Funds

Growing businesses underpin our economy and provide needed jobs. It is well recognized that small businesses are the largest source of new jobs. Initially financed by the owners and their family, the need for capital to finance the growth often exceeds what is available, including bank debt. At this stage they may look to the public market for capital.

Participating in financing for early stage companies is risky. Some of these companies will fail, others may tread water for years, while some will be exceedingly successful and grow into very large national or international companies.

Government often speaks of its “investment” in a manner that sets out where our tax dollars are spent. Provincial governments can make real investments, alongside the private sector, that will grow their economy by investing in publicly listed venture companies through a provincially funded venture fund (“Venture Fund”).

The Venture Fund can be funded by an annual commitment from the provincial government but managed at arm’s length to prevent any conflicts of interest. The amount invested in any public company should be limited to lesser of 20% of the shares issued or \$1 million. An annual commitment of \$50 million, for example, could provide access to capital for at least 50 companies per year. The amount of funding made available to the Venture Fund can be increased in times of greater need to stimulate growth.

Appropriate criteria should be established to govern qualifying investments which would be evaluated and approved through the Venture Funds management. In addition to reviewing or performing due diligence on the issuer, other criteria could include seeking approval to list on an exchange, contribution to job creation in Alberta, and minimum non-institutional investor (retail) participation. The due diligence performed by the fund managers would add credibility and increase investor confidence and participation.

The Venture Fund will ultimately be able to recycle the capital invested in venture companies by divesting in these companies as they grow and attract other investors. The Venture Fund will allow Alberta to diversify its economy and stimulate emerging industries. Emerging industries could include artificial intelligence (“AI”), where Canada and the University of Alberta are world leaders in advancing the technology.

Provincially sponsored Venture Funds would improve access to capital for venture companies, stimulate the provincial economy and help foster a robust capital market for venture securities.

We appreciate the opportunity to comment. If you have any questions or further inquiry, please feel free to contact us.

Sincerely,

Leede Jones Gable Inc.



Jim Dale, B. Comm, CPA, CA
Chief Executive Officer

S. Mark Francis

Suite 300, 840 – 6th Avenue SW Calgary, AB T2P 3E5 403-993-1750 email: sfrancis@mymts.net

20th of September, 2019

Denise Weeres
Director, New Economy
Alberta Securities Commission
c/o new.economy@asc.ca

re: ASC Consultation Paper 11-701 Energizing Alberta's Capital Market

Dear Ms. Weeres et al.,

I am writing this comment letter in my capacity as an individual participant in the small cap markets, as an active small cap investor, director of two reporting issuers, angel investor, co-host of a small cap investor forum, and advisor to entrepreneurs, but also informed, via my opportunity through more than 15 years consulting to the Canadian Securities Exchange, by various conversations and discussions over the years, and in particular in CSE meetings and roundtables in Calgary, Edmonton, Regina, Brandon, and Winnipeg, and the townhall in Calgary wherein the link to the ASC Consultation Paper was sent to participants in advance and they were asked to be prepared. Some of the comments made are being relayed without judgement. My underlying view is that healthy and relatively free public markets are not just good for the economy but are also a strong social good for society.

The outline of my comments are generally as follows:

- Background Perspective
- The small and mid cap markets are in crisis for several reasons
- Regulation of Independent Investment Dealers and their IAs is crushing
- There is a need for much lighter regulation of small funds investing in small caps
- Investor Access needs improvement, and IIROC is harming service to risk-oriented investors
- Public Companies are unfairly treated by government policy / regulation (taxation, grants, competitive disclosure, etc.)
- An Active Listed market for non-convertible debt, especially for growth companies, would be beneficial
- Other comments on Regulation

Background Perspective

We should recognize that 1986 – 2011 was a golden quarter century for small caps which may not be repeated, completion of resource company restructurings being one of the primary reasons. Canada has had, and likely still has, the best capital markets in the world for small cap public companies. Canada's small cap market, though, has been slipping since 2007, and badly since 2011. Absent the cannabis financings the reality is even worse. For the purposes of this response, "Small Cap" is intended to include small, micro, and nano cap companies, and "Mid Cap" would start somewhere around \$200m and run to perhaps \$2billion+.

Since 2007, almost none of investors' losses in small caps have been due to fraud or inadequate regulation but rather due to tax policy, changes in tax policy, and an increasingly powerful bank/bank-owned investment dealer oligopoly which directly and indirectly hampers capital formation in the small cap markets. The actual financially-related causes vary by industry. In Oil&Gas the largest impact was the loss of income trust rules, and now exacerbated by what is essentially a freeze on lines of credit for smaller producers (under 10,000 boe/d). In mineral exploration it was the premature delineation of marginal deposits (overcapitalization / overfunding) driven by the larger size of funds which had minimum investment thresholds that did not fit the early stage exploration companies. This mismatch is also a significant problem for most early stage tech companies going forward (in addition to the effective loss of SR&EDs by going public). And for all companies both a lack of growth capital (in particular debt) and over regulation of the independent dealers by IIROC has constricted service delivery to retail investors and driven retail investors to the bank dealers' discount arms where those investors get minimal advice or guidance.

It will be more challenging to restore the small cap financial markets than in the past, but Western Canada is still the best placed in the world to do so.

A. Breadth of the Issues

There are a range of reasons for the declining funding availability for small cap and mid cap companies and the simultaneous narrowing of direct equity investment opportunities for non-institutional investors, some of them unrelated to actual securities regulation. These include:

Regulatory Burden on Independent Dealers, especially in relation to high-risk securities.

Loss of SR&ED for early stage tech companies – not only is the rate reduced for companies going public, but it goes from being cash refundable to being a credit against taxes payable.

Only a small portion of tech companies become taxable, and if that does happen normally only a

number of years in the future. A high discount rate for the uncertainty and value of capital therefore has to be imposed on the NPV calculation for the SR&EDs, bringing the NPV to almost zero, a harsh penalty for becoming more transparent and allowing one's shares to be broadly held by the citizenry. Companies backed by VCs, generally in turn backed by pension funds (primarily plans for government employees, herein after referred to as "GEPPs") and other private equity do not suffer this.

Loss of Public Income Trust structure resulting in Competitive Disadvantage relative to companies owned by Pension Plans due to changes in taxation of income trusts and ability of GEPPs to structure their investee companies to minimize corporate taxes. This competitive disadvantage can prove crushing.

Size of Funds – Regulatory requirements around managing funds and access to fund distribution channels means that it is prohibitively expensive to operate a fund of \$10m - \$100m, and funds of \$200m + will generally not invest in companies of market cap of under \$100m, let alone under \$50m or under \$20m.

B. Regulation of Independent Investment Dealers and IAs

Regulation of Independent Investment Dealers and IAs is severely constraining their ability to work with their retail clients who would like to invest in small caps and even to prospect for new clients who might wish to do so. I have received numerous complaints, both specific and general. CRM and KYP-to-come and the interim version of KYP are most to blame. Investment advisors tell me that they are severely constrained in prospecting, even in promoting and running seminars, as if KYC were being imposed on educational conversations prior to individuals becoming clients, and also thereby hampering a key source of education for the investing public.

The Independent Dealers are very vulnerable to business isolation by banks and bank dealers, possibly resulting in a fear of retribution for complaints.

Independent Investment Dealers are a critical link of accountability between companies and investors, and these dealers do not want bad deals. Removing them from their traditional participation will drive retail investors to engage without proper advice. KYC was sufficient for risk-oriented investors.

There must be a mechanism allowing investors to waive IIROC reviews / regulatory burdens (CRM, KYP) on the Dealer in relation to that investors' investments. In addition, Dealers should be allowed to promote the existence of this waiver.

C. Need for Small Funds for SmallCaps

There need to be industry-specific small funds which can invest amounts of \$250,000 - \$2.5 million in a particular company, whether via a financing or market transactions. This means that there must be an efficient internal structure and external regulation for funds ranging from \$10million - \$100million, mirroring the US “regulatory light” for certain funds under \$100m.

It would also be most beneficial to investors to have the opportunity to piggy-back on smart small cap investors, and it would help small cap companies to be able to attract such investors as lead for private placements/other financings.

Care must be taken not to be too prescriptive. These funds may not be publicly traded themselves, and especially in the case of tech must be free to invest in companies intending to stay private and exit via M&A transactions. In the case of tech/industrial some small funds may wish to invest in royalty streams (capped or otherwise) that are difficult to value. Because evaluating both the potential and the risks for most early stage ventures is not actually related to detailed analysis of financial statements, allowing single individuals who have expertise / training in the particular field of focus, perhaps with some of their own funds at risk, is more likely to result in success than requiring a team of CFAs. Structure of investor participation, especially in the case of debt funds, may not be purely common equity, and might even take the form of GP/LP structures. It may make sense to require a wind up in 5 – 7 years, and offering may be limited to one time (especially as the cost of valuing private companies in order to produce a NAVPS can be prohibitive). Consideration might be given to requiring Investment Dealer sponsorship to allow the offering to be made to non-accredited investors.

D. Investor Access

The ASC has done a good job of providing further exemptions to non-accredited individual investors in terms of participating in private placements, but IIROC’s CRM has muted their availability as dealers are concerned that broad use of this exemption will result in time consuming and costly regulatory inspections and reviews. In many cases IIROC regulation and the fear of aggressive IIROC investigations and interpretations have resulted in even accredited investors being constrained from participating in private placements. Curiously, the bank-owned discount brokerages are not similarly limited in allowing their accredited discount clients to participate – discount clients can do as they wish with the banks earning fees in a part of the market they generally eschew, at the expense of those independent investment dealers upon which the market relies to provide its expertise and advice.

1. There is strong support for broadening accredited status to include two new categories: educated / experienced. The Canadian Securities Course might in fact be sufficient. Exemptions for lawyers, CPAs, MBAs, geologists in respect of mining deals, etc. were also mentioned.
2. CRM is too constraining and prejudiced against both common share ownership, in particular for those who are over 65, and in regards to risk-oriented securities in general.
3. In order for the current exemptions for non-accrediteds to participate in private placements, and even accrediteds to participate in such, IIROC must be constrained in its universal application of CRM (and KYP) in its regulation of independent dealers.
4. Clients of Independent Dealers should be allowed to waive IIROC CRM, KYP, etc. with IIROC not being able to engage in regulatory harassment (see section B above).
5. Crowdfunding: The limits are likely too low for a number of reasons. Manitoba's 91a and 91b (even if not still active) may be an excellent alternative.
6. Finally, the KYC and personal relationship of investment advisors and their clients should be allowed to suffice.

E. PubCos Punished by Policy, Regulation, and Taxation

Public Markets are more than an economic tool: They are a strong social good. Societies in which individuals can invest on a level playing field in much of the economic engine tend to be more stable, more equitable, and less stratified. The beneficial impact of individual citizens having a direct vested stake in various aspects of the community is well documented. The burdens assumed by public companies relative to private companies has reached a tipping point. The public disclosure provided by public companies is invaluable to all economic participants, and private companies and others free ride off of that information at the expense both outright and indirect to the public companies. On the tax front public companies are disadvantaged in numerous ways, from loss of CCPC status and attendant impacts, to effective loss of SR&ED, and due to effective loss of the income trust tool a corporate tax disadvantage placed against their private equity/GEPP-owned competitors.

Finally, throughout Canada provincial and federal government programs often explicitly or implicitly preclude public companies, without consideration to the size of the public company.

The ASC and the Government of Alberta should advocate for the Public Markets.

The Provincial Government should initiate a study to estimate the extent of the disadvantage being incurred by companies when they must compete with GEPP owned entities.

F. Need for access to Debt Capital

Small and growing companies, even with revenue of \$100m per annum are having difficulty in getting access to appropriate debt capital, especially in relation to oil & gas and O&G service but also in other industries. Many other companies have effective listed markets for non-convertible debt, and in many cases the size of the listed debt instruments is less than \$50m and even less than \$20m. Canada has also lagged the US in use of high-yield, high-risk debt for growth. There are some regulatory constraints which could hinder development of this (e.g. CRM constraining retail client participation in such debt instruments, and ability of companies to solicit conversion of a range of accounts payable into a common debt instrument rather than waiting until forced into a court process). In addition, having some small cap funds that focus on debt would be highly beneficial in creating such a market, and if this is to happen in Canada it will happen first in Alberta and be lead here.

The ASC could provide some leadership in bringing the community together to have deeper discussions on this matter.

G. Regulation of Listed Companies

By and large regulation of listed companies is not undue, although there are a number of examples which are overkill and across the country I do hear a number of complaints which seem on the surface to indicate overly bureaucratic approaches.

1. Do lighten up a bit on the regulatory overkill of companies. It may make sense to trade some of the requirements or processes for requiring consistency in corporate website relative to SEDAR disclosure.
2. Beware the false allure of simply waiving Q1 and Q3: There is very mixed opinion on this, often depending on the revenue status of the company. Investors do not want to lose access to quarterly financial information, in particular the cash / working capital position of the company, and this focus should not be dismissed as “short termism”. In any case, boards should be reviewing the financial statements on a quarterly basis. Given that Western Canada arguably has the best small cap markets in the world, imitating those with poorer such markets may not be advisable. An example of a question for review is whether there is a liquidity impact on companies operating under H1/H2 reporting, especially toward the end of the 8 month gap of financial reporting between H1 and H2. Another is how to guide companies on disclosing when their financial position has become materially different. If there are not quarterly statements, at what point should a company publicly advise that its working capital position has changed? It is

curious that the CSA would propose eliminating Q1 and Q3 altogether, but would not agree to waive the associated MD&A. A frequent comment is that preparation of the notes to the F/S is time consuming and few investors value them, especially the very long statements on accounting policies.

3. Two CPAs commented that the move to 120 days to produce an audit drove most companies right into April 30, the largest deadline for CRA filings, and that for many of the smaller audit firms and corporate officers this creates many challenges. Perhaps this might be revisited.

4. MD&A “light” has largely missed the point. Most CFOs are afraid that the subjective requirements outlined will require almost as much time, and that there is great likelihood that the / a commission will review whether the chosen disclosure was appropriate. In fact this has borne out in a couple of cases and the comment was that the result took far more time than just going through the pain of using the longer MD&A process.

H. Other

Among various other comments the following stood out: There is a lack of clarity on finders’ fees and ability of EMDs to participate in offerings, prospectus and private placement, of public companies (even among a number of securities lawyers), and on the seeming contradiction in representatives of EMDs being less constrained in prospecting and soliciting high risk private placements than their more highly regulated and market trained peers at Independent Investment Dealers. In addition, comments were made in regards to the cost of OMs as a financing tool.

I would be happy to discuss any of these matters further, and in particular may be useful to you in relation to Small Cap Funds, developing a Listed Debt Market, and Advocacy for Public Markets.

Thank you and Respectfully Submitted,

Original signed.

S. Mark Francis, CIM
Capital Markets Consultant

Comment letter to the ASC from NCFA

In response to ASC Consultation Paper 11-701
Energizing Alberta's Capital Market



Date: September 22, 2019

Prepared for: Denise Weeres, Director, New Economy, Alberta Securities
Commission (new.economy@asc.ca)

Prepared by: National Crowdfunding & Fintech Association of Canada (NCFA)

September 22, 2019
Alberta Securities Commission
Att: Denise Weeres, Director, New Economy
new.economy@asc.ca

Dear Ms. Weeres,

We are pleased that the Alberta government is undertaking this important initiative to the benefit of all Albertans. We acknowledge the substantial background information provided by 11-701. This submission responds to the brainstorming headings pp. 24 – 31 and seeks to fill knowledge gaps with recent consultation data (mainly obtained in Edmonton) and pays specific attention to equity (investment) crowdfunding and peer lending in Alberta.

Key Takeaways

The NCFA recommends that the ASC undertake the following:

- Review and publish a report that evaluates the effectiveness of Alberta's investment crowdfunding and peer lending requirements compared to other jurisdictions in Canada and international competitors such as the UK, US and Australia, including a comparison of the relative cost of capital to other available financing options;
- ASC to take a more active role as a resource for both early stage companies and investors including data collection, market analysis, and information sharing to ensure more fair and efficient capital market formation in Alberta;
- Engage Innovate Edmonton and Platform Calgary following the detailed third-party study by Startup Genome to obtain detailed ecosystem benchmarking data for follow-on analysis of Alberta's funding gaps;
- Support the development of a tax relief program for investors to increase the volume of start-up risk capital allocated to non-traditional sectors (eg. financial technology) similar to the effective programs in the UK: SEIS¹ and EIS²;
- Work with other jurisdictions to harmonize the crowdfunding regime across Canada (CSA Staff Notice 45-324) with the goal of eliminating unjustified regulatory burden at the same time. We favour BC's regime;
- Modify existing requirements so that they are principles based and outcomes focused to enable businesses to comply in the way that best suits their operations – detailed or prescriptive controls should only be imposed when clearly justified;
- Implement burden reduction amendments for crowdfunding (45-108):
 - Increase the 12 month issuer cap to \$5 million or higher;
 - Increase the 12 month investor caps to \$10k and allow accredited investors to fully participate;
 - Allow advertising and general solicitation on social media for all crowdfunding;
 - Allow fintech solutions to streamline KYC and suitability tests;
 - Startup crowdfunding business exemption (45-109) – remove lifetime cap of \$1 million; or increase lifetime cap to minimum \$5 million.

¹ <https://www.gov.uk/guidance/venture-capital-schemes-apply-to-use-the-seed-enterprise-investment-scheme>

² <https://www.gov.uk/guidance/venture-capital-schemes-apply-for-the-enterprise-investment-scheme>

Benefits to Alberta will include:

- Increased capital investment in the province and increased economic growth;
- Increased investment options for investors that support small businesses across Alberta;
- Reduced pressure on Albertan startups to raise capital from outside Alberta and Canada;
- Crowdfunding sources remain in Canada;
- More capital and improved access to capital specifically for small businesses, rural businesses, economically challenged sectors, and under-served groups (eg. women and Indigenous business owners);
- More liquidity and transparency in the markets;
- Improved probability of retaining high growth companies in Alberta; and
- Accelerated commercialization of new products and services.

Crowdfunding helps to drive innovation, economic activity and job growth. It fills a critical early stage funding gap ('valley of death'), enables more productive investment in venture markets, and strengthens early stage capital markets. Crowdlending also provides support to more mature companies looking to access capital that may fall outside the parameters of bank lending. And last, but not least, it helps to democratize investment by giving smaller investors direct access to the capital markets.

"Regulation may be the largest constraint to capital markets Fintech development in Canada, as we have not set out many of the same principles as in the U.S. and U.K."³

This is not the time for Alberta to hold back.

Thank you for the opportunity to contribute comments. NCFCA would be happy to expand on any of the points raised in this submission. We look forward to future developments.

Sincerely,



On behalf of NCFCA Canada, Partners and Affiliates⁴Craig Asano
 Founder and CEO
 1240 Bay St. Suite 501
 (416) 618-0254

³ 1 An Overview of FinTech in Canada. Global Risk Institute. March 2018:
<https://globalriskinstitute.org/publications/an-overview-of-fintech-in-canada/>.

⁴ Thanks to NCFAs many expert advisors, partners and contributors especially Chris Fetterly, Directory Student Innovation Centre, University of Alberta

1. Background and Context

Contrary to the intent of the crowdfunding exemption, Alberta's crowdfunding requirements hinder access to capital for SMEs across many sectors. These requirements have restricted innovative opportunities for retail investors and our members feel the impact of this directly. The potential of opening up regulation is to significantly increase job creation and economic development, as experience in other jurisdictions shows. Alberta's 417,000 small businesses would also benefit from the increased access to capital that crowdlending offers. Canada has fallen behind international competitors like the UK and the US. Crowdfunding now provides the largest investment at the seed stage in the UK and peer-to-peer platforms now provide 15% of all new bank lending to small businesses.

2. Fintech and Crowdfunding are Being Held Back in Canada

Canada's crowdfunding and fintech "ecosystem" should be competitive, be in line with global trends, and enable early stage entrepreneurs to access smaller amounts of capital at a reasonable cost. Unfortunately, it is not and does not. There is a 'funding gap' as smaller companies find it very challenging to raise debt or equity financing in Canada.

There is a 'valley of death' for start-ups at around the \$250,000 level. Venture capital funding has increased, but VC dollars are mostly going to expanding firms. Angels are a lot less active than in the US and their investment amounts are lower. Banks generally steer clear of start-ups. This means fewer innovative start-ups, fewer opportunities for investors, lower economic growth and productivity and fewer jobs.

"Regulation may be the largest constraint to Fintech development in Canada, as we have not set out many of the same principles as in the U.S. and U.K."⁵ The NCFA has conducted numerous stakeholder consultations which overwhelmingly tell us that regulatory requirements are overly prescriptive, complex and burdensome, disproportionately raising the costs of doing business for start-ups. Entrepreneurs are reluctant to start up in Canada due to high costs (relative to a small financing), along with concerns about ongoing regulatory burdens such as over-reaching and complex reporting requirements and compliance reviews.

Investors are inhibited by restrictions like caps on investment. Many talented entrepreneurs and investors move to (or invest in) overseas jurisdictions that better understand (and support) innovation and the economic potential of start-ups and SMEs. If the NCFA recommendations were to be implemented, the experience of other jurisdictions makes clear that more capital would be raised, especially for under-served sectors (e.g. women and minority groups, including First Nations, and rural communities). Investors would have increased confidence and more freedom to invest as they choose – any increase in investor downside risks are anticipated to be low.

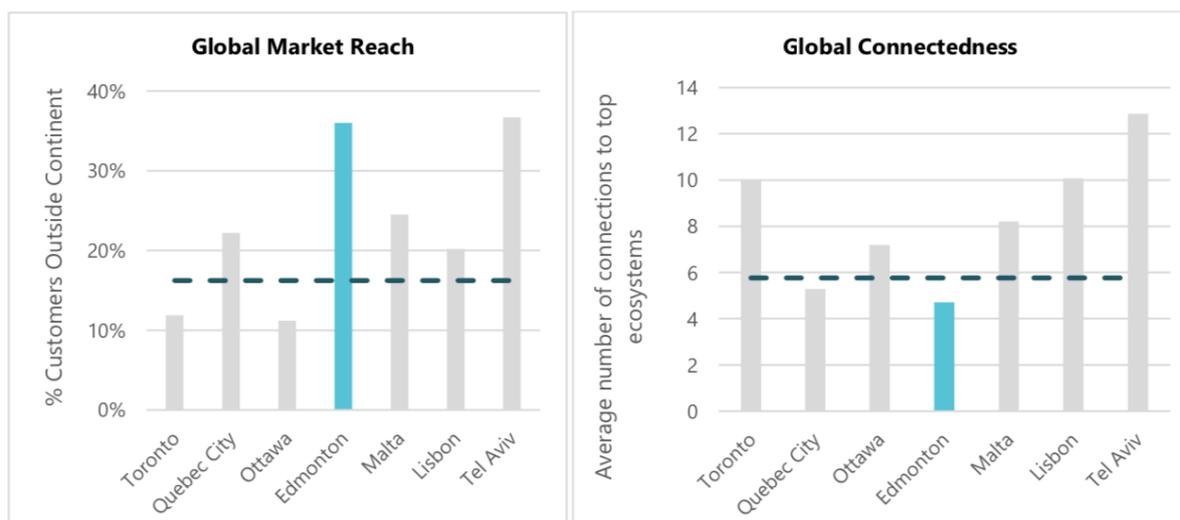
⁵ An Overview of FinTech in Canada. Global Risk Institute. March 2018: <https://globalriskinstitute.org/publications/an-overview-of-fintech-in-canada/>.

3. Alberta

The call for comments by the ASC is a leap towards positive change in the Albertan capital markets and crowdfunding landscape. While the in-depth background material supplied by the ASC in 11-701 clearly lays out the challenges for Albertan companies, there are updated consultative engagements with the entrepreneur communities in Edmonton and Calgary. These updated reports will be a useful addition to the ASC’s decision-making processes. They also provide excellent contacts for ASC’s engagement with Alberta’s major centers.

(a) Startup Genome Reports

In Edmonton, starting in May 2018, community meetings under the banner of the “Edmonton Innovation Ecosystem Community” engaged members of the innovation community.⁶ To date, there have been 11 community consultations with key innovators on a near-monthly basis. The impetus for the first gatherings followed consultation with 50 entrepreneurs in Edmonton to gather their feedback on ecosystem performance. The EEDC engaged Startup Genome to begin measurement of the ecosystem performance. The Edmonton Report brought two key measurement instruments to the ecosystem, Global Market Reach (GMR) and Global Connectedness (GC).



Startup Genome Edmonton Ecosystem Assessment, May 2018

We ask that the ASC review the results of EEDC’s more detailed analysis of the ecosystem as part of their assessment of 11-701 responses. Notably, Edmonton lags behind its Canadian peers in attracting resources from within the country. In addition, Edmonton ranked below what the report calls the Globalization Phase Average in Early Stage Funding per Startup, based on data from Crunchbase and Deal Room. The key actionable insights from this early analysis are that Edmonton should focus on increasing early stage funding by (1) widening the funnel and increasing startups with seed funding; (2) supporting the formation of more sources of capital (ie. Angel groups); and increasing access to Series A capital. Calgary has also engaged Startup Genome for ecosystem benchmarking⁷.

⁶ <https://edmontoninnovationecosystem.com>

⁷ <https://www.calgaryeconomicdevelopment.com/newsroom/measuring-calgarys-startup-ecosystem/>

(b) Innovation Compass

Another work product from the EIEC meetings in Edmonton was the Innovation Compass report⁸. Due to perceived low numbers of early entrepreneur engagement, EEDC engaged ZGM Marketing to complete a third-party interview process with Edmonton Entrepreneurs to make recommendations that reflect the voice of Edmonton entrepreneurs. Engagement began in December 2018 and the final report was published June 20, 2019. The report provided community validated recommendations and directions for supporting the city’s tech innovation ecosystem. Among 14 recommendations and directions, the top recommendation was: *“Encourage pools of private investors from all sectors to move off the sidelines and start investing in local tech entrepreneurs.”*

Recommendation & Direction Statement	% OF PARTICIPANTS WHO SELECTED STATEMENT				
	Overall	Only Entrepreneurs	Only Service Providers	Only Service Firms	Others
Encourage pools of private investors from all sectors to move off the sidelines and start investing in local tech entrepreneurs.	58.12%	60.91%	55.00%	30.00%	59.38%

Highest priority recommendation from Edmonton innovation ecosystem community members in the YEG Innovation Compass Report.

(c)Edmonton Advisory Council on Startups (EACOS)

During the early meetings of the EIEC, it was recognized that a body completely separate from EEDC that reflected the voice of Edmonton entrepreneurs was needed. The Edmonton Advisory Council on Startups was formed with members representing all stages of entrepreneurship to ensure diversity. EACOS is comprised of 13 individuals representing students, seed, startups and scale-up stage companies, and investors. EACOS has published three position papers¹⁰ aimed at increasing the size, throughput, energy, and success of the Edmonton startup community. EACOS has identified a number of community priorities and access to capital is top of mind. EACOS has recommended:

“Intensified efforts to engage local investors into investing into local technology companies. Investors who have built capital through traditional means, like real estate and energy, need to be effectively engaged, educated, and presented with the portfolio opportunities of technology investments.”

⁸ <https://www.innovationcompass.ca/home/>
¹⁰ <https://www.eacos.ca>

4. Comparison: British Columbia

BC and some other jurisdictions have less burdensome crowdfunding requirements¹¹ that allow small firms to raise up to \$250,000 per offering (twice a year), with participation from other provinces. While still not ideal, these less burdensome exemptions have proven to be much more effective than MI 45-108 in Ontario.

For background on exemptions in Canada see:

https://www.bcsc.bc.ca/Securities_Law/Policies/PolicyBCN/PDF/BCN_2018-01_February_14_2018/.

(This BCSC Notice expresses well many of the points we raise in this submission)

5. Canada's Uncompetitive Position

Canada has fallen behind international comparators such as the UK. In the UK, crowdfunding platforms were involved in 24% of all equity deals in 2017, but with 30% of seed stage deals in 2017.¹²

To see the advantages of a uniform, cross-border, and flexible crowdfunding regime, one need look no further than Regulation D in the US. The following are quotes from the recent Crowdfunding Capital Advisers Report.¹³

“2018 saw triple digit growth in unique offerings, proceeds and investors. More importantly, start-ups are successfully using Regulation Crowdfunding to raise meaningful capital in a relatively short period of time and at costs that are less than a typical Regulation D offering.

“Unlike venture capital, where less than 6.5 percent of start-ups successfully raise funds, the success rate in Regulation Crowdfunding hovers around an impressive 60 percent. A key data point for industry followers is that the average raise (\$270,996) helps start-ups hurdle the “valley of death” they often face after expending their internal or personal capital.

“Regulation Crowdfunding is proving to be a jobs engine (creating on average 2.9 jobs per issuer), economic generator (pumping over \$289 million of revenues into local economies)... There is still a lot of room for growth with Regulation Crowdfunding offerings as they equate to only 1.2 percent of all Regulation D offerings and only 4 percent of all capital raised under Reg D.

“The fact that the velocity of capital into funded offerings continues to be steady without signs of abnormal activity or irrational investor behaviour is a healthy indicator. Meanwhile, the rapid increase in the number of offerings and investors proves there is continued appetite for Regulation Crowdfunding from both issuers seeking capital as well as investors looking to diversify. This is true across the [US].

“Regulation Crowdfunding is also proving efficient. If we compare the average days to close (113) in 2018 and average raise (\$250,635) of a successful Regulation Crowdfunding

¹¹ the 'Start-up Crowdfunding Registration and Prospectus Exemptions – [https://www.bcsc.bc.ca/45-535_\[BCI\]_09212017/](https://www.bcsc.bc.ca/45-535_[BCI]_09212017/).

¹² <https://www.british-business-bank.co.uk/wp-content/uploads/2018/07/Equity-Tracker-Report-2018.pdf>

¹³ <https://venturebeat.com/2019/01/30/regulation-crowdfunding-performed-solidly-in-2018-heres-the-data/>

campaign to a traditional Regulation D offering, Regulation Crowdfunding most likely represents the most efficient, cost effective way to raise capital for start-ups and SMEs.”

The type of (published) data collection and analysis provided by the above report is rare in Canada, which is another serious impediment to decision making in this area. To back its recommendations, NCFA (and others) must rely largely on anecdotal evidence from its members.

6. Canada’s Competition Bureau

As the Competition Bureau has pointed out¹⁴, a more flexible approach to regulation and better government support would provide significant economic benefits by freeing entrepreneurship. It would also help to keep our entrepreneurs in Canada (along with the related jobs), boost GDP (especially by improving productivity), and encourage the commercialization of new products and services generally. It is well-documented that overly complex, prescriptive regulation is a much higher burden for smaller firms and so is inherently anti-competitive. For a disappointing progress report on the Bureau’s recommendations of Dec 2017. See: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04392.html>

7. ASC Brainstorming Ideas and Comments

(a) Information resource for Alberta start-ups and early stage businesses on capital raising options

- Raising capital shouldn’t be a ‘black box’. Companies and investors would benefit if the ASC could:
 - provide a roadmap to the various financing options including use of exemptions, what typical companies (and investors) that qualify look like, average time to market, related costs and effort, and capital flows;
 - publish sample templates of the expected quality of good offering documents;
 - work with industry to develop a transparent resource database that is widely available.
- Dovetailing with EACOS recommendations on entrepreneur preparedness, more information on successive financings would benefit the Alberta tech ecosystem. The ASC could consider hosting this data in an anonymized format so that Alberta startups could learn about their local comparables.

(b) Information resource for investors in Alberta

Some market participants have suggested there might be a role for the ASC in increasing investor understanding respecting the exempt market and considerations when investing in start-up and early stage businesses

- The ASC assuming an educational role could only be beneficial to Albertan investors, especially those that are seeking to diversify outside of real estate or oil and gas. An equity crowdfunding or peer lending platform operating in Alberta could then easily point to this resource as a third party unbiased educational resource for investors.
- In addition to local investors, ASC could work with economic development agencies

¹⁴ <http://www.competitionbureau.gc.ca/eic/site/cbbc.nsf/eng/04322.html>

to provide education on exempt market trends and developments to international investors and funds with a new focus on emerging technology as a means to diversify the Alberta economy.

- Highlighting a range of companies by sector and capital raised in private markets would help investors understand high growth SME opportunities.

(c) Expanding the accredited investor exemption to include educated, experienced investors

What are the right combinations of education and experience? For the educational component, should we consider courses such as those offered through the CVCA Canadian Private Capital Investment School or the NACO Academy for those investing in private markets?

- The accredited investor exemption if expanded to include educated and experienced investors would unlock latent capital in Alberta while increasing opportunities for qualifying investors and allow for greater portfolio diversification.
- Any expansion of the accredited investor definition should aim to ensure that investors understand the risks involved with investing in private market securities such as reduced disclosure and lack of liquidity and provide education on the evolving trends of online financing such as peer lending, investment crowdfunding, and digital assets.
- Education should be tendered and open to all private capital market training bodies, associations, licensed exempt market dealers, and investor-orientated groups and structured to be flexible and allow a wide range of participation to enable:
 - the right balance of training expertise and collaboration;
 - wide program accessibility;
 - current and relevant training content updated on an annual or periodic basis;
 - range of “textbook” and experiential training delivery;
 - certification and listing for public verification on an ASC database; and
 - capture of investor risk acknowledgement such as ability to withstand loss
- The certificate of training could then be used by equity crowdfunding and lending exempt market dealers and portals to validate investor training in a streamlined manner (rather than have investors go through the same process with various dealers and portals time and time again).

Given that the policy rationale for the accredited investor exemption is ‘ability to withstand loss’, would it be appropriate to impose some limit on the amount that can be invested by an educated/experienced investor that is not otherwise an accredited investor e.g., the greater of \$30,000 and 5% of their investment portfolio?

- Accredited investor and qualifying experienced-educated investors should be allowed to fully participate without caps in investment crowdfunding and peer lending offerings.
- Accredited investors should be encouraged to invest in or along-side a Start-up Business Exemption campaign. The participation of accredited investors at higher levels will provide non-accredited investors with added value as the investment group

will perform greater due diligence than investors only investing the minimum threshold amount in a Start-Up Business Exemption offering.

(d) Addressing the compliance challenges associated with confirming accredited investor status

The central party could then confirm, through a unique investor identifier, to any business or dealer to whom the investor provided the unique identifier, that based on the information provided, the investor qualifies as an accredited investor, without the need for the investor to reveal all of their personal information.

- This is a logical and reasonable solution that mirrors recreational licensing and even academic author identification systems (see Orcid ID).
- Unique IDs could be used as part of a background check which will help reduce the number of days required to verify ID prior to being permitted to participate on equity crowdfunding or peer lending platforms.
- There are numerous 'regtech' solutions now in the market that can be assessed by the ASC for potential use and deployment.
- Any investor verification system should be neutral to avoid a single group monopolizing a provincial (or national) system.

(e) Registration exemption for finders

We are interested in feedback on a dealer registration exemption for sales to investors that are accredited investors who also meet certain education and/or experience criteria. We are interested in how such an exemption could be tailored to adequately protect investors but help address the issues associated with smaller financings that are not being serviced by registered dealers.

- We agree that a registration exemption for qualified 'finders' would help expand the pool of investors and supply more capital to early stage companies.
- Finders should be required to notify the ASC of their identity or could be required to associate with registered dealers or engaged by investment platforms.
- Finders not associated with registered dealers could be required to report periodically on their investor prospecting activity using technology to streamline communications. This would not only provide employment opportunities for finders but also minimize unreported finder type activity that occurs anyway while increasing the transparency in the exempt market for smaller financings.

(f) Reducing compliance costs for registered dealers when dealing with accredited investors

This applies across the piece in the crowdfunding sector. Each requirement should be cost justified by regulators.

(g) Addressing other registered dealer compliance burdens

For crowdfunding related burden reduction examples we encourage the ASC to review NCFAs submission to the Ontario Securities Commission of March 1, 2019 –

burden reduction.¹⁵

(h) Facilitating angel investment funds

Should we consider adviser registration exemptions where accredited investors have a limited amount of capital at risk?

- Yes, especially if accredited investor status is expanded to include well educated and experienced investors. In this scenario, with small amounts of capital deployed and a demonstrated ability to withstand a specified loss, barriers to obtaining capital from multiple crowd sources would be reduced.

(i) Facilitating the development of a retail, publicly-traded fund focused on innovative businesses

- We feel this is best answered by VCs and institutions.

(k) Facilitating a semi-public market that allows secondary retail trading by non-public companies

- The illiquid nature of exempt market securities is often cited as a major concern of prospective investors so anything that assists secondary trading is welcomed.
- A secondary market for exempt securities would also benefit early employees of start-up companies by allowing them to liquidate holdings pre-IPO and thus help early stage companies to offer creative compensation packages and attract a wider range of employees to help them grow.¹⁶
- A semi-public market should be open to all types of exempt securities from crowdfunding to security tokens to allow fair and efficient markets to form.

(m) Fostering crowdlending and peer-to-peer lending

- Peer-to-peer (P2P) lending is providing SMEs with financing in many jurisdictions, including the US, the UK, New Zealand and Australia, at rates which are considerably lower than those offered by competitors.
- The popularity of P2P lending in the UK has increased exponentially in recent years, with nearly £10 billion being transferred through such platforms in the past ten years and approximately £1.2bn having been transferred through P2P platforms in the second quarter of 2019 alone.
- The current securities regulatory regime in Canada imposes costs and burdens that create significant impediments to the success of any P2P platform and by extension the availability of financing to Canadian SMEs.
- The current regime in Canada is not suited to allowing companies to raise debt financing as it treats them as issuers. The regulatory requirements for becoming an issuer are simply too burdensome for small loan sizes (for example a \$50,000 loan).
- The sheer magnitude of P2P lending and its positive impact on the economies of advanced jurisdictions elsewhere suggests that it would be beneficial for Canadian SMEs if the regulators in Canada were to adopt a regime specific to P2P

¹⁵ <https://ncfacanada.org/march-1-2019-ncfa-submission-to-the-ontario-securities-commission-on-regulatory-burden/>

¹⁶ <https://corpgov.law.harvard.edu/2018/10/09/cashing-it-in-private-company-exchanges-and-employee-stock-sales-prior-to-ipo/>

lending. A regime modeled on those successfully implemented in jurisdictions, like the UK, where P2P lending has been proven to provide much needed funding to SMEs while ensuring an appropriate level of protection for investors.

About the NCFA

The National Crowdfunding and Fintech Association of Canada (the Association) represents over 2,000 fintech SMEs and individual members that support financial and capital market innovation, small businesses and technology. We are pleased that the Alberta government is undertaking this important initiative to the benefit of all Albertans.



September 20, 2019

To: Alberta Securities Commission
Attention: Denise Weeres, Director, New Economy
new.economy@asc.ca

Dear Sirs/Mesdames:

RE: ASC Consultation Paper 11-701 – Energizing Alberta’s Capital Market

The Private Capital Markets Association of Canada (the “**PCMA**”) is pleased to provide our comments in connection with the Alberta Securities Commission’s (the “**ASC**”) Consultation Paper as set out below.

We believe the ASC is demonstrating its continued leadership as a member of the Canadian Securities Administrators (the “**CSA**”) in examining new and better ways to foster a more vibrant Alberta capital market that can better address the financing needs of emerging and growing Alberta businesses while maintaining important investor protection safeguards.

The PCMA’s comments are in connection with brainstorming ideas (a, (b), (c), (d), (e), (f) and (g).

About the PCMA

The PCMA is a not-for-profit association founded in 2002 as the national voice of exempt market dealers (“**EMDs**”), issuers and industry professionals in the private capital markets across Canada.

The PCMA plays a critical role in the private capital markets by:

- assisting hundreds of dealer and issuer member firms and individual dealing representatives to understand and implement their regulatory responsibilities;
- providing high-quality and in-depth educational opportunities to the private capital markets professionals;
- encouraging the highest standards of business conduct amongst its membership across Canada;
- increasing public and industry awareness of private capital markets in Canada;
- being the voice of the private capital markets to securities regulators, government agencies and other industry associations and public capital markets;
- providing valuable services and cost-saving opportunities to its member firms and individual dealing representatives; and
- connecting its members across Canada for business and professional networking.

Additional information about the PCMA is available on our website at www.pcmacanada.com.

Responses to specific brainstorming ideas in the Consultation Paper

- a) **Informational Resources for Alberta start-ups and early stage businesses on capital raising options**
- b) **Informational Resources for Investors investing in Alberta Businesses**

We have combined our response to both brainstorming ideas for issuers and investors. The PCMA strongly supports any ASC initiative to improve resources dedicated to investor education and information for new for Alberta start-ups and early stage businesses on capital raising options in the private capital markets. We believe these resources can be delivered electronically through the ASC website and include YouTube videos, live and recorded webinars and other digital-based media.

Investor Education and Websites

As investor education resources and tools are common among all CSA members, for your ease of reference, we have identified certain examples of investor information on select CSA member websites that we think are good resources. We have provided select comments and observations in Schedule A. We also reviewed the ASC's current website that it relaunched in 2019, and have similarly provided comments as a means of addressing these brainstorming topics.

ASC Website – Investor Dashboard

The PCMA supports the continued development of the ASC Checkfirst¹ Investor Dashboard (the “**ASC Investor Dashboard**”). Upon review of the ASC's investor education videos, we believe they can be grouped into two types: Investing 101 Videos - general investor education, and Investment Fraud Videos - warning videos. The first type of videos includes information about RRSPs and TFSAs, developing a financial plan and basic financial concepts. The second type of videos include information about affinity fraud, pump and dump schemes, recognizing and avoiding Ponzi schemes, and victim testimonials.

The PCMA believes that information about the private capital markets and exempt market dealers (“**EMDs**”) is missing and applauds the ASC efforts in creating an Exempt Market Dashboard as discussed below under “*ASC Website – Exempt Market Dashboard*”. It is in the private capital market where start-ups and early stage businesses will likely find options for raising capital. It is the ASC's mandate to develop fair and efficient capital markets as well as protecting investors.

The PCMA believes information on the ASC Investor Dashboard should include, by video or downloadable documents, more information about the private capital markets, including, but not limited to, the following topics:

- What is the difference between the private and public capital markets
- What are prospectus exemptions and how are they used to finance businesses and create jobs in Alberta
- How the offering memorandum exemption works to raise capital in Alberta
- What is the role of an EMD and its Dealing Representatives in the capital raising process
- What is the role of an issuer when raising capital and how do they work with an EMD
- Risk and reward considerations when investing
- Explaining the purpose of the risk acknowledgement forms
- What documents should an investor read when considering an investment

¹ <http://www.checkfirst.ca>

- How to work with a dealing representative in completing your know-your –client (“KYC”) form and subscription agreement
- Redemptions and liquidity in the private capital markets
- How to read your client statements in the private capital markets (e.g., what ‘not determinable’ means)
- How do you set up a registered plan for private capital market securities

The PCMA would welcome the opportunity to work closer with the ASC in developing topics of interest that can provide investors with better more tailored information about the private capital markets.

As an example of an excellent investor education tool, we acknowledge and appreciate the hard work the ASC has completed, in consultation with the ASC’s Exempt Market Dealer Advisory Committee, in the release of *ASC Notice 31-701 – Account Opening Assistance*.² It provided a sample KYC form and account information explaining, among other things, what information a Dealing Representative collects from an investor and why. It is not uncommon for investors to ask why an EMD and its Dealing Representatives have to ask so many questions, including personal financial and other information, when completing a client KYC form and related documents. This is a very helpful tool for Dealing Representatives who can provide this document to investors to support the requirement to provide KYC information.

ASC Website – Exempt Market Dashboard

The PCMA applauds the ASC creation and further enhancement of its Exempt Market Dashboard (i.e., Tableau Public).³ We recommend certain enhancements to content, overall usability and user-friendliness, as set out below:

- as this is an Alberta initiative, consideration should be given to showcasing Alberta-based issuers and linking them to Alberta-based EMDs that have approved a particular offering for distribution and sale.
- adding information similar to what is found on the TSX Matrix, but with easy access to information about private capital market investment opportunities and documents for Alberta investors, such as the issuer’s offering memorandum, related OM marketing materials and audited annual financial statements.
- consider providing easy access to the ASC’s existing database of exempt financings (similar to BCSC eServices) to provide insights on the size and nature of financings being reported to the ASC.
- the ASC states in the Consultation Paper that it seeks comments on whether it should encourage certain limited information to be filed with the ASC about private financings that are not currently required to be reported (e.g., amount raised, price, and security type). The PCMA suggests the option for issuers to provide such information, however, it should not be a requirement. An issuer should be encouraged to provide information for investors that could be used for educational/information purposes rather than providing the ASC with more information which is burdensome to an issuer without a corresponding benefit.
- The website for the ASC Investor Dashboard is slow and does not appear to include all data (e.g., missing some years; when selecting two issuers only one shows up in the search filter).

² <https://www.albertasecurities.com/-/media/ASC-Documents-part-1/Regulatory-Instruments/2018/10/5380701-v1-ASC-Notice-31-701-PDF.ashx>

³ <https://public.tableau.com/profile/albertasecuritiescommission#!/vizhome/ExemptMarketDashboard/EXDDashboard>

- Please ensure the ASC portal is compatible for all users. SEDAR for example, will not always display documents on Apple based devices or other PDF viewers, outside of Adobe.
- We believe that the ASC needs to create a dashboard that is developed from the “Eyes of an Investor”. The ASC Dashboard should include an issuer-specific site that has all of an issuer’s information in one place. For example, if an investor wants to see all filings about Alberta Business Inc., it should be able to go to a specific site within the ASC’s portal that has key information about the issuer filed with the ASC including:
 - the same information as on SEDAR for reporting issuers (as applicable)
 - the issuer’s offering memorandum (current and past), if applicable, or another document filed with the ASC
 - marketing materials, if available
 - audited annual financial statements (current and past), if available
 - news releases, if available
- Such an issuer centric site would allow investors and market participants to have more information and transparency about each issuer in a use-friendly manner. The PCMA would welcome the opportunity to have further discussions with the ASC regarding this initiative.

The PCMA strongly recommends that the ASC initially focus on developing an investor friendly site dedicated to Alberta investors, issuers and local based registrants.

c) **Expanding the Accredited Investor Exemption to include Educated, Experienced Investors**

With the current poor economic situation in Alberta arising from depressed oil prices and otherwise, it is time for Alberta to diversify its economy outside of oil and gas, by increasing capital formation for start-up and early stage businesses which are often referred to as small and medium size enterprises (“SMEs”). This requires an examination of how capital is raised under available prospectus exemptions, including the accredited investor exemption (the “**AI Exemption**”) as set out in section 2.3 of National Instrument 45-106 – *Prospectus Exemptions* (“**NI 45-106**”).

The PCMA supports the ASC idea to expand the definition of an “**Accredited Investor**” (“**AI**”) under the AI Exemption to increase the pool of capital for Alberta issuers and to provide Alberta investors with increased investment opportunities, while maintaining the required investor protections.

If the AI definition is expanded, it will increase the number of AIs in Alberta and arguably increase: (a) investing by Alberta investors; and (b) employment by Alberta issuers who now have better access to capital to grow their businesses, create jobs and stimulate the economy.

Alberta needs to increase capital formation for SMEs, especially those issuers who have raised less than \$10,000,000 since inception. Such amounts are not necessarily being raised by Alberta EMDs and other Alberta registrants. This is due the cost of a registrant’s compliance burden under securities legislation for the relatively small amount raised in various tranches or rounds of financing. Regardless of the size of the capital raise, the compliance burden does not change significantly.

The ASC’s review of the AI Exemption is consistent with the current review underway by the United States *Securities and Exchange Commission* which released in June 2019 its paper titled, “*Concept Release on Harmonization of Securities Offering*”⁴ (the “**US Concept Paper**”). The SEC is also

⁴ <https://www.sec.gov/rules/concept/2019/33-10649.pdf>

undertaking a review of the definition of AI in the United States and the ways to harmonize its exempt market and this could be a good source of information for the ASC Consultation Paper.

The AI Exemption is premised on an investor having:

- a certain level of sophistication,
- the ability to withstand financial loss, and
- the financial resources to obtain expert advice

Under the current AI definition for individuals, the income and asset tests are based on financial thresholds that assume an individual or with a spouse has the financial capacity to withstand a loss, in whole or in part, of their investment. Based on such financial thresholds, the AI definition assumes the individual has the requisite financial sophistication to carefully consider their investment or will hire an expert to provide such advice. The PCMA believes income and net worth are not the only proxies for investor sophistication and believe there are alternative approaches for determining AI status.

The PCMA believes it is reasonable to view an investor's financial sophistication as a viable way to assess an individual's qualification as an AI. We respectfully submit that if an individual has the financial sophistication and the ability to obtain and evaluate the information to make an informed decision including whether and how to much invest; it may not be necessary for the individual to demonstrate the ability to sustain losses.

The PCMA believes the ASC should expand the AI definition based on individual investors having:

- certain business experience and professional certifications
- certain education and degrees
- completed an examination such as the
 - Exempt Market Product Examination
 - Accredited Investor Examination
- being a member of an ASC approved angel group and successfully completed an Angel Investor Course Exam
- self-certification as a:
 - Sophisticated Investors; or
 - Restricted Investor

Each of the above concepts is discussed below.

Business Experience and Professional Certifications

The PCMA believes the AI definition should consider an individual's financial and business sophistication and include criteria such as having operated a business, or a certain investment related professional certification.

An individual who has operated a business should be considered an AI if they have satisfied certain criteria that each act as a proxy for 'operational experience' in a business. Factors to be considered include: the length of time an individual has operated the business, what experience or title an individual held within the company to determine their operational experience, consideration of the gross revenues earned by an issuer and other factors.

The PCMA recognizes a challenge could be in determining what is requisite operational business experience but recommend basic criteria could be included in a further ASC proposal and request for industry comment.

Similarly, the PCMA believes certain professional certifications and designations may also provide demonstrable evidence of investor sophistication and such individuals should be included in the AI definition. There are a number of examinations that test an individual's knowledge and understanding in the areas of securities and investing, and individuals must pass examinations to obtain the necessary professional certification. The PCMA submits that individuals having the following professional designations should be included within the AI definition: certain types of lawyers (e.g., those with corporate and/or securities law experience), a Chartered Professional Accountant, a Chartered Financial Analyst; a Canadian Investment Manager; a Certified Financial Planner; and a Life Insurance Agent.

The PCMA recognizes some individuals who obtain certifications and designations may not practice in fields related to the certifications or designations. For these individuals, the validity of the credential as a proxy for financial sophistication could be lessened.

Educational Degrees

The PCMA believes certain educational backgrounds more appropriately reflect investor sophistication than financial metrics. We suggest criteria such as university degrees and advanced degrees in relevant areas to be included within the AI definition.

While certain types of degrees likely imply knowledge in the areas of finance and investing, such matters would require determining which degrees would be sufficient for an individual to qualify as an AI. The PCMA submits the educational degrees the ASC should include within the AI definition could include individuals who have: a business degree from an accredited university, a law degree from an accredited law school and other relevant degrees.

Industry Examinations

The PCMA submits that the ASC should add a new category to the AI definition that includes individuals who have passed certain examinations, such as the Exempt Market Product Exam or a proposed Accredited Investor Examination to be included within the AI definition.

Having successfully passed an acceptable exam, provides demonstrable evidence of relevant investor sophistication. The subject matter of their examination would satisfy either the proficiency requirement for a dealing representative under applicable securities law or be tailored to what an AI would need to know to make a fully informed investment decision.

Logically, if someone is sophisticated enough to advise others on investing, they should themselves be qualified to invest in them.

As is currently being explored the US Concept Paper, the ASC should allow any individual who successfully passed the Exempt Market Product Exam or the Canadian Securities Course Exam to be an AI. These individuals would be meet the definition of AI if they were employed by an EMD since the current definition of AI includes an existing or former registrant. An individual's integrity or solvency would not be relevant since the ASC would not be considering such individual's fitness to be a registrant as required under applicable securities law (e.g., solvency or integrity matters). The ASC should also consider any individual who has satisfactorily passed the examination to satisfy the proficiency

requirements to be a registrant under securities legislation. These courses would include: the Canadian Investment Funds Course Exam, the Investment Funds in Canada Course Exam, the Sales Representative Proficiency Exam, and the Series 7 Exam.

We suggest the ASC create an Accredited Investor Examination (the “**AI Exam**”) which is also contemplated in the US Concept Paper. This could provide a path for individuals who can objectively demonstrate, by passing an examination, that they are financially sophisticated and understand the nature and risks of investing in exempt market offerings to qualify as an AI.

An AI Exam would be available to anyone, regardless of their wealth, educational background, professional experience or any other factor. Individuals who are unable to qualify as an AI under any other criteria could take such an examination as an alternative means to qualify. This approach could enable financially sophisticated individuals to qualify as AIs regardless of their wealth, educational background or professional experience.

An AI Exam could include elements that test investors’ knowledge of the risks present in exempt offerings, as well as financial and investing concepts in general. We note that portions of the Exempt Market Product Exam cover these areas and could potentially be used as a model for developing an AI Exam.

An AI Exam would reduce compliance burdens on issuers and registrants, since verification of a passing score would typically not require significant time or cost. Moreover, requiring that examination results be relatively recent (*e.g.*, within five years) or requiring continuing education could help to ensure that investors remain informed of marketplace trends and risks and regulatory changes.

The PCMA believes the ASC should move forward with such an initiative, on its own if required, since it has clearly demonstrated its desire to energize its capital markets. Although, the PCMA is a strong proponent of harmonization, there is a crisis in capital raising in Alberta to raise capital, create jobs and grow Alberta’s economy that requires an immediate response.

Experience Investing in Exempt Offerings

Expanding the AI definition to include individuals with relevant investment experience would recognize an objective indication of financial sophistication and allow experienced investors to maintain their AI status. These individuals presumably have developed knowledge about the private capital markets, including their inherent risks. This experience may include performing due diligence, negotiating investment terms and making valuation determinations.

Angel Investors

Angel groups provide an important source of very early stage financing. Alberta needs to grow and expand its angel group community. Angel groups screen potential investments, perform due diligence, negotiate investment terms and make valuation determinations. The formation of an angel group and the collaboration among investors demonstrates a certain degree of financial sophistication.

The PCMA submits that the ASC should approve certain angel groups as ‘designated angel groups’ and allow members of such groups, subject to certain requirements have satisfied the definition of AI. To be a ‘designated angel group’, the ASC would have to develop standards by which such groups may qualify. A

member of a ‘designated angel group’ would then be an eligible AI provided that they have been a member for at least a specified period of time and taken an Angel Investor Course.

The PCMA believes that as an alternative to an Accredited Investor Exam, angel groups could prepare a qualification exam (*i.e.*, Angel Investor Course Exam), that satisfies the ASC curriculum requirements (to be developed by the ASC in consultation with the National Angel Capital Organization) and, if it such an exam was successfully completed by an individual, they would then be qualified as an AI.

Self-Certified Investors

Another approach the ASC could consider in changing the AI definition would be to allow investors to self-certify certain matters, as they do in the UK, as discussed below.

The PCMA submits that the ASC should also permit individuals to self-certify they are a sophisticated investor as they do in the United Kingdom (the “UK”) which the PCMA submits should be sufficient to satisfy the AI definition. The UK permits self-certification by an individual who is a “sophisticated investor” and its criteria are set out in Schedule B.

Self-Certified Restricted Investor

The PCMA submits that the ASC should also permit individuals to self-certify they are a sophisticated investor as they do in the UK which would satisfy the AI definition. This type of AI would be limited in the amount they can invest in any 12-month period and capped to 10% of their net financial assets. It would also provide a bright-line definition of net assets which could easily be derived from the net asset test in the definition of an “eligible investor” under the offering memorandum prospectus exemption as per s. 2.9 of NI 45-106 (the “OM Exemption”). Arguably, this allows investors to invest in start-ups and SMEs but limit their investment risk to a maximum amount that the PCMA submits provides the right balance between investor protection and fair and efficient capital markets.

An example of the type of Restricted Investor Certificate a qualified investor completes in the UK that would have to be tailored for Alberta securities law is set out in Schedule C.

d) Challenges associated with confirming accredited investor status

The PCMA believes it is important that alternative means be provided to verify that an individual is an AI. Many EMDs have compliance processes used for determining the income and assets of an investor that make up part of their KYC forms. Some EMDs use a spreadsheet as an information gathering tool to obtain more detailed information about an investor’s assets and liabilities to determine whether they satisfy various financial thresholds as an AI under the AI Exemption or an “eligible investor” (“EI”) under the OM Exemption.

Unless there is a glaring red flag, an EMD typically does not request a copy of an investor’s income tax return or notice of assessment. Many investors consider such information ‘highly’ confidential and do not feel comfortable providing it to a third party. Accordingly, despite reasonable efforts of an EMD to correctly verify the AI status of an investor, and the investor signing various documents attesting to being an AI, the investor may provide inaccurate information to satisfy the AI Exemption. The impact of any incorrect information may adversely impact reliance on the AI Exemption. In such circumstances, doubt would be cast on the EMD’s procedures for AI verification which could result in regulatory or enforcement action.

For the above reasons, the PCMA believes the ASC should allow third parties, or the ASC itself, to verify an investors status as an AI or EI which could be relied upon by an issuer and/or registrant in connection with any trade under the AI Exemption or OM Exemption respectively as applicable.

The PCMA has set out in Schedule D various considerations involving AI verification that the ASC should consider.

e) Registration exemption for finders

The PCMA agrees that SMEs raising modest amounts of capital have significant difficulty in attracting a registered dealer, such as an EMD, to sell their offering. We also agree that these difficulties are exacerbated in rural or smaller communities given the geographical distance to a registered dealer.

The PCMA, however, also recognizes that the regulatory compliance burden placed on EMDs is too great relative to the time, money and effort required by an EMD to raise small amounts of capital for SMEs. It takes considerable effort for an EMD to complete due diligence on an issuer and its offering, albeit a SME, who often cannot afford skilled and experienced legal counsel or auditors to help them with structuring and preparing all offering documents. This will be exacerbated if the ASC and other CSA members implement some or all of the proposed Client Focussed Reforms. Such added compliance burdens are forcing EMDs to look at larger or institutional quality issuers with more experienced managed teams who engage knowledgeable and experienced professionals (*e.g.*, lawyers and auditors) to lower their risk while leaving SMEs to fend for themselves.

EMDs are further challenged working with SMEs since they typically have less experienced management teams (*e.g.*, in understanding the capital raising process and otherwise), have new and often unproven business models and likely inadequate capital to support their existing burn rate.

Based on the foregoing, an EMD's compliance burden is disproportionate relative to the compensation it may receive for its capital raising effort, if successful. This is also a risk in underwriting SMEs offerings and further exacerbated with the "higher-risk investments"⁵ that may be associated with these issuers.

In addition, EMDs also have to deal with dissatisfied investors if any investment fails, which failures will arguably increase for SMEs and negatively impact an EMD's reputation and relationship with investors (*e.g.*, investors may not make further investments with an EMD who sold them an offering that failed). Moreover, if such SME offerings result in a client complaint or OBSI investigation, then the time, money and effort that an EMD has to deal with SME offerings is compounded further.

Lastly, the cost of conducting detailed KYP on a SME becomes a sunk cost for an EMD well in advance of a distribution; whether or not it is successful. Accordingly, EMDs may seek to offset this cost through an up-front fee (which may be too expensive for a SME) or through a commission structure based on capital raised (which may be too costly relative to the amount of capital raised and which is entirely dependent on the success of an offering). Simply put, the regulated KYP process has become too expensive and high risk for EMDs to consider distribution arrangements with SMEs and accordingly, SMEs need to look elsewhere for capital beyond that afforded by a SME's existing investor network.

⁵ The PCMA believes within the classification of an investment as "high risk" there are further gradations of low, medium and high risk that can distinguish high-risk products among themselves. For example, a high-risk investment in a private REIT that has a few hundred million in income producing properties that has been paying distributions uninterrupted for seven years is *less risky* than a high-risk investment in a new start-up bio-tech or software application company.

In sum, there are *bona fide* reasons why EMDs are hesitant to raise capital for SMEs although some EMDs would like to be involved in the process.

Notwithstanding the foregoing, the PCMA recognizes that the status quo is not working. The ‘status quo’ effectively limits SME to raise capital under existing and very narrow prospectus exemptions, such as the private issuer exemption (s 2.4 of NI 45-106), the close family, friend and business associates exemption (s 2.5, 2.6 and 2.6.1 of NI 45-106), and the AI Exemption (s 2.3 of NI 45-106). However, registering finders is not the answer and, in fact, provides significantly less investor protection.

Northwest Exemption & Unregistered Finders

On March 19, 2019, the ASC published a notice of its continuation of ASC Blanket Order 31-505 (“**ASC 31-505**”) *Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions* which contains limited relief from the requirement to register for a trade in a security in connection with certain prospectus-exempt distributions known as the “Northwestern Exemption”.⁶

ASC 31-505 is contrary to **Multilateral CSA Notice 32-302**⁷ (“**MN 32-302**”) that was published on August 15, 2018 by the securities regulatory authorities in each of British Columbia, Manitoba, Nunavut, the Northwest Territories and the Yukon (collectively, the “**NWE Jurisdictions**”). MN 32-302 states, among other things, that the substantially harmonized registration exemptions in each of the NWE Jurisdictions that form the Northwestern Exemption (the local orders) will cease to be effective in their local jurisdictions on April 30, 2019. Accordingly, Alberta is the only Canadian jurisdiction that continues to retain the Northwest Exemption.

Although the PCMA believes it is important to allow finders to operate in the capital markets since they provide an important function for registrants involved in raising capital, we recognize that some finders engage in the “*business of trading*” and should be registered. We also recognize that the ASC and other CSA members spend significant resources on reviewing the activities of certain finders to determine whether they are engaging in registerable activities. Allowing ASC 31-505 is not the answer to a problem that needs to be resolved in favour of investors and for those EMDs that have gone through the entire process of registration and its continued requirements.

Based on the foregoing, many PCMA members, especially EMDs, recommend the ASC revoke 31-505, as was done in 2018 by the NWE Jurisdictions in connection with the Northwest Exemption (*i.e.*, the local rules in each jurisdiction). The PCMA is of the view that Alberta should harmonize with the other CSA members and rescind 31-105 which is inconsistent with the current state of regulation and provides inadequate investor protection.⁸

⁶ https://www.albertasecurities.com/-/media/ASC-Documents-part-1/Regulatory-Instruments/2019/03/5445797-ASC_Notice_Update_on_BO_31-505.ashx

⁷ Multilateral CSA Notice 32-302 *Notice of Revocation for Certain Local Orders Providing Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions and Update on BC Instrument 32-517 Exemption from Dealer Registration Requirement for Trades in Securities of Mortgage Investment Entities*

⁸ As stated in Multilateral CSA Notice 32-302 by those CSA members in the NWE Jurisdictions unregistered finders do not protect investors, where it states, among other things, the following, “*We are of the view that those purchasing securities in the private placement market require enhanced investor protections, in particular, the protections that are afforded by dealing with a registrant. Today, when investors in the participating jurisdictions invest in the private placement market from someone relying on the exemptions, they lose the benefit of receiving advice from a registrant, including the benefit of a registrant’s advice about whether the investment is suitable for them in their circumstances. Further, these investors lose the protection offered by the due diligence a registrant must perform on the security to determine if it is suitable. With the removal of the local orders and BCI 32-517 (the exemptions), these investors should also benefit from the additional protections of the registration regime.*” [bold added for emphasis]

Regulation of Referral Agents

Notwithstanding the foregoing, the ASC and other CSA members published in June 2018 changes to NI 31-103 called the “Client Focussed Reforms”⁹ that sought, among other things, to eliminate referral agents/finders unless a referral was made by a registrant. The PCMA submitted a comment letter in response to the Client Focussed Reforms and, among other things, did not support any proposed changes to the existing referral arrangement rules under NI 31-103.

The PCMA believes the ASC needs to provide additional guidance involving the Do’s and Don’ts involving unregistered referral agents rather than promoting a registration framework. The existing securities laws in Canada describe what an unregistered referral agent cannot do and, if they engage in such activities, states that they must be registered. In contrast, the PCMA believes the ASC and other CSA members should publish what non-registered referral agents can do, to increase compliance, remove uncertainty and provide better investor protection.

The PCMA submits that the ASC and other CSA members should provide bright-line rules on what non-registerable activities can be undertaken by referral agents and request input from referral agents to create better guidance. The ASC can easily publish permitted and non-permitted referral agent activities, including FAQs that can be updated from time to time.

The PCMA also requests that the ASC and other CSA members review and rationalize certain case law involving referral agent activities that cross the line into registerable activities. The PCMA and others in the exempt market are very concerned with a 2018 decision by the BCSC *Re Liu, 2018 BCSECCOM 372*¹⁰. In this matter the British Columbia Securities Commission scrutinized the details of certain referral arrangements and determined that some of the referral agents engaged in registerable activities. The British Columbia Securities Commission disregarded the guidance on referral arrangements in the Companion Policy to NI 31-103 which is both concerning and highly confusing. The purpose of the Companion Policy is to provide the interpretation of the regulators with respect to the application of securities legislation.

The PCMA believes that burden reduction involves clear and easy to understand regulations to increase compliance. The continued emphasis by the ASC and other CSA members on what cannot be done and broad-based principles that are used against referral agents is unhelpful and increases the regulatory burden, even on Commission staff who are responsible for investigating such matters that can and should be simplified. Accordingly, the PCMA requests better guidance and information on permitted and non-permitted activities by referral agents. Such certain will increase compliance and may provide greater comfort for others to act as referral agents without the worry and risk of contravening applicable securities law.

⁹ https://www.osc.gov.on.ca/documents/en/Securities-Category3/rule_20180621_31-103_client-focused-reforms.pdf

¹⁰ BCSC decision involving Chien-Hua Liu, also known as William Liu, NuWealth Financial Group Inc. and CPFS Professional Financial Services Inc. located at: <https://www.canlii.org/en/bc/bcsec/doc/2018/2018bcseccom372/2018bcseccom372.html>

Closely-Held Issuer Exemption

The ASC should consider Ontario's former closely-held issuer prospectus and registration exemption if it wants to consider new ways of raising capital. Simply, with prescribed disclosure and investment limits that protect investors, it allows issuers to raise up to \$3,000,000 from no more than 35 non-AIs that are not required to have any prescribed type of relationship with an issuer's officer, directors or otherwise.

This former OSC exemption had its roots in what was called the "seed capital" prospectus exemption that allowed a private issuer to solicit investment capital from no more than 50 prospective purchasers, provided sales are made to no more than 25 purchasers.

The PCMA supports a type of Closely Held Issuer Exemption or hybrid model incorporation aspects of Ontario's former seed capital exemption. Select aspects of the Closely Issuer Exemption is set out in Schedule E.

f) Reducing compliance costs for registered dealers when dealing with Accredited Investors

As stated in the Consultation Paper, securities regulation currently allows "permitted clients", as defined in NI 31-103, to waive certain investor protections involving a registrant's KYC and suitability obligations under applicable securities law. The PCMA supports the introduction of a similar waiver of a suitability assessment for AIs in Alberta as proposed in the Consultation Paper.

If the ASC and the Alberta Government are truly committed to making it easier to raise capital for SMEs while protecting investors, a better balance between capital formation and investor protection needs to be achieved. One means would be the introduction of an AI suitability waiver that allows certain investors to invest as they chose, without Government regulation, while protecting investors by limiting such a waiver to AIs (i.e., not retail investors).

The PCMA believes that AIs should be allowed to waive suitability and certain suitability-related KYC processes. However, a registrant, such as an EMD, would still have all other responsibilities towards an investor, as imposed by applicable securities law, including duties of care, registrant proficiency, know-your-product, conflicts of interest obligations, complaint and dispute resolution obligations, pre and post-trade disclosure, books and record retention and financial solvency and bonding/insurance requirements. Suitability and other KYC, obligations, to the extent they are required (the determination of suitability) are some of the few registrant duties that are directly tied to an investor's own sophistication and risk tolerance. As AIs have already been deemed to have a certain amount of sophistication and risk tolerance under the principles of NI 45-106, it is not incongruous to allow an AI to waive these obligations for the purposes of an NI 31-103 regulated transaction so long as it is their decision voluntary made with full disclosure of all information necessary to make an informed investment decision.

We note that AIs can currently request a client directed trade ("CDT") under applicable securities law, however, that is based on a registrant undertaking a full suitability analysis at first instance and finding the investment unsuitable. Only after a registrant has determined that a trade is unsuitable can an investor direct/instruct a registrant to complete a trade. Therefore, the benefits of a suitability waiver, in contrast to a CDT, is that no suitability determination would be required of a registrant at all. The option would remain open to any AIs that they are not required to waive suitability rather it is their choice. However, for those Accredited Investors that desire to make their own investment decisions, a suitability waiver would enable them to take control of their own investment decisions and disclosure.

The PCMA does not believe the ASC needs to link any AI waiver of suitability to investment experience since that is highly subjective and would complicate the process. Furthermore, we are of the view that the AI Exemption in NI 45-106 has already purported to establish deemed sophistication for this class of investor and investment experience is unnecessary and inconsistent with established principles.

The ASC has requested comments on whether it would be appropriate to impose some limit on the amount that could be invested, *e.g.*, the greater of \$30,000 and 5% of an AI's net worth. The PCMA does not object to imposing a form of Investment Limit, and recognizes that this may be an effective means of differentiating between the obvious differences between an AI and a Permitted Client. However, we strongly recommend that the ASC undertake further research and consultation on whether such limit is high enough given that the investor is an AI. The PCMA notes that the ASC does not include any "net income test" for an Investment Limit. We believe that including a net income test to determine any Investment Limit is consistent with the definition of accredited investor.

The ASC's desire to energize the Alberta capital markets is a laudable objective. Allowing for Accredited Investors to waive their registrant's suitability obligations is a fundamental step towards allowing the marketplace to organically drive this objective because of the options it creates.

g) Other registered dealer compliance burdens

We appreciate the discussion about the compliance challenges/burdens of EMDs, particularly smaller EMDs. This is a topic that we believe requires further examination to improve the balance between fair and efficient capital markets (*e.g.*, the compliance burden) with investor protection. The PCMA believes the compliance burden is currently out of balance for EMDs, particularly smaller EMDs.

Outsourced Chief Compliance Officers

There is a shortage of qualified CCOs in the Canadian capital markets, including Alberta. The biggest issue is finding someone who has the requisite industry experience, while at the same time, being able to adequately compensate such individual for their knowledge and experience. A smaller EMD may not be able to afford the services of the type of CCO they would like to hire since they are too small and have insufficient capital.

However, if a CCO could provide its services to more than one EMD (*i.e.*, act as part-time CCO for more than one EMD), then efficiencies and economies could arguably be achieved. This would be consistent with the US which allows CCOs to be independent contractors and work for more than one investment firm. The idea of having an individual act in part-time capacity for a registrant is not new in Canada. IROC allows part-time Chief Financial Officers for an investment dealer as an example of part-time services being provided by a registered individual to multiple registrants.

It would be the responsibility of each EMD and CCO to determine how much time the CCO should be working on-site (and, if applicable, at what intervals on-site work should be scheduled) in order for the EMD and CCO to comply with their regulatory obligations and meet the needs of the business. A CCO who routinely works off-site or with multiple EMDs needs to be prepared to devote more time to a particular EMD or spend more time on-site as needs and situations arise.

Whether regularly working on-site or not, the CCO would, amongst other of his/her supervisory responsibilities, participate in executive management meetings and inquire about and review relevant contracts, ongoing liabilities, future commitments and operational matters that may impact the EMD's

business balance sheet and capital position. An EMD would need to provide a part-time CCO with unrestricted access to its books and records.

The part-time CCO is to be apprised of all relevant commitments under consideration by the EMD, including but not limited to, contracts under negotiation, corporate finance transactions in progress, etc. If the CCO is working off-site, it is expected that he/she is in regular communication with the EMD, remaining current on management and financial matters.

An EMD engaging a part-time CCO (including a CCO who routinely works off-site or with another EMD) should continually evaluate the growth and development of the business and consider whether a part-time CCO continues to be appropriate for the scale and scope of the business activities being undertaken. We note that the regulatory obligations of a part-time CCO are exactly the same as the regulatory obligations of a full-time CCO. The duties and responsibilities of a part-time CCO are not attenuated if the CCO works off-site or if the CCO works with a number of EMDs.

Associate CCO

As part of obtaining the requisite industry experience, the PCMA believes the ASC and other CSA members should permit the designation of an Associate CCO similar to the concept of an Associate Advising Representative. The designation of an Associate CCO would permit an individual to develop the skills and experience of working under the direction of an actual EMD CCO, including a part-time CCO. This would improve the talent pool and number of available and qualified CCOs that could act as a CCO for an EMD.

The small talent pool of available and qualified CCOs is a barrier to entry where an individual is approved based on the view of a CSA member. The process needs more transparency and if an individual has experience while acting as an Associate CCO for an EMD and the requisite knowledge, including taking a specialized CCO Exam for those in the EMD space, then investor protection would be dramatically enhanced while also reducing a current barrier to entry. In addition, an Associate CCO could be on-site in circumstances where the EMD had a part-time CCO who was not on-site on a full-time basis.

EMD Specific CCO Exam

The PCMA believes that the ASC should encourage and participate in the development of a CCO exam specific for EMDs. There needs to be greater engagement by the ASC and other CSA members in curriculum design tailored to the exempt markets. The CCO Course offered by the Canadian Securities Institute is an excellent course, however, the role of a CCO in the exempt market is quite unique and needs to be more fully addressed.

The PCMA believes the preparation and launch of such a course requires funding that is currently unavailable in the private capital markets. Accordingly, we believe the ASC and other CSA members should allocate the necessary resources in the development of a CCO Examination for the private capital markets.

Registrant Portal

The PCMA believes the timing and scheduling of any CSA member reviews and sharing of comment letters and responses should all be located on a single Registrant Portal. This Registrant Portal should allow registrants to upload documents in a safe and secure manner that they are required to provide CSA members, including the ASC in connection with a review. PCMA members have sometimes noted that

certain CSA members do not have a portal or change portals which increasing the time, money and effort to upload documents.

A Registrant Portal ensures that both CSA members, including the ASC, and an EMD have access to the same information, including comment and response letters, especially when there is a change in staff at a CSA member or EMD firm.

In addition, if information has previously been provided, then a CSA member can limit their requests to any updates. For example, if an EMD has previously uploaded a KYC form (individual, joint or entity KYC form), a CSA member can simply inquire whether the form has been updated and if so, request an EMD to upload the revised form. If not, no further action is required. This will make such document requests more efficient and effective for all parties.

In conclusion, we thank the ASC for the opportunity to provide our comments and look forward to meeting with ASC staff for in-person discussions.

Regards,

COMMENT LETTER COMMITTEE MEMBERS

<i>Craig Skauge</i> Vice Chair and Member of the Executive Committee	<i>Brian Koscak</i> Vice Chair and Member of the Executive Committee and Chair of Advocacy Committee
<i>Nancy Bacon</i> Director Co-Chair of Dealing Representative Committee	<i>Martha Kane</i> Director

PCMA EXECUTIVE

<i>Frank Laferriere</i> Chair	<i>Georgina Blanas</i> Executive Director
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cc: PCMA Board of Directors

SCHEDULE “A”

PCMA COMMENTS ON CSA, BCSC AND OSC WEBSITES

CSA Website

The CSA website includes a search tool that allows investors to verify the registration of an individual or firm. It also provides related information such as, disciplinary history of the registrant and the terms and conditions imposed any registration. This data is valuable in helping to protect investors.¹¹

- The PCMA believes it is difficult to quickly find information such as the Chief Compliance Officer or Ultimate Designated Person of a registered firm. We believe these two positions should come up on the top page in the registration search.

BCSC Website

The BCSC via their **InvestRight**¹² website provides investors with online tools and information to help them make investing decisions and protect themselves against unsuitable or potentially fraudulent investments. Furthermore, the BCSC also has a database called “**BCSC eServices**”¹³ that publishes exempt distribution reports and related materials, including offering memoranda filed by BC-based issuers that have distributed securities worldwide, and other issuers that have distributed securities in BC.

- The PCMA believes that it would be more investor-friendly if it provided better ways of searching the database, including key-word searchability within certain documents.

OSC Website

Similar to the BCSC and the ASC, the Ontario Securities Commission (the “**OSC**”) has also launched a platform with the purpose of providing tools and resources to both investors and market participants called “**Get Smarter About Money**”.¹⁴

¹¹ <https://www.securities-administrators.ca/investortools.aspx?id=1128>

¹² <https://www.investright.org/investing-101/the-basics/private-placement-market/>

¹³ <https://eservices.bcsc.bc.ca/eder/formsearch.aspx>

¹⁴ <https://www.getsmarteraboutmoney.ca>

SCHEDULE “B”**SELF-CERTIFIED SOPHISTICATED INVESTOR**

In order to be a Self-Certified Sophisticated Investor under applicable UK securities law, an individual would have to satisfy one of the listed criteria set out below.

Statement For Self-Certified Sophisticated Investor

I declare that I am a self-certified sophisticated investor for the purposes of the *Financial Services and Markets Act (Financial Promotion) Order 2005*.

I understand that this means:

- a. I can receive financial promotions that may not have been approved by a person authorised by the Financial Services Authority;
- b. the content of such financial promotions may not conform to rules issued by the Financial Services Authority;
- c. by signing this statement I may lose significant rights;
- d. I may have no right to complain to either of the following—
 - i. the Financial Services Authority; or
 - ii. the Financial Ombudsman Scheme;
- e. I may have no right to seek compensation from the Financial Services Compensation Scheme.

I am a self-certified sophisticated investor because at least one of the following applies—

- a. I am a member of a network or syndicate of business angels and have been so for at least the last six months prior to the date below;
- b. I have made more than one investment in an unlisted company in the two years prior to the date below;
- c. I am working, or have worked in the two years prior to the date below, in a professional capacity in the private equity sector, or in the provision of finance for small and medium enterprises;
- d. I am currently, or have been in the two years prior to the date below, a director of a company with an annual turnover of at least £1 million.

I accept that I can lose my property and other assets from making investment decisions based on financial promotions.

I am aware that it is open to me to seek advice from someone who specialises in advising on investments.

Source: <https://www.fjpinvestment.co.uk/appendix-b/>

SCHEDULE "C"**SELF-CERTIFIED RESTRICTED INVESTOR**

In order to be a Self-Certified Restricted Investor under applicable UK securities law, an individual would have to satisfy one of the listed criteria set out below.

I make this statement so that I can receive promotional communications relating to non-readily realisable securities as a restricted investor.

I declare that I qualify as a restricted investor because:

- (a) in the twelve months preceding the date below, I have not invested more than 10% of my net assets in non-readily realisable securities; and
- (b) I undertake that in the twelve months following the date below, I will not invest more than 10% of my net assets in non-readily realisable securities.

Net assets for these purposes do not include:

- (a) the property which is my primary residence or any money raised through a loan secured on that property;
- (b) any rights of mine under a qualifying contract of insurance; or
- (c) any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are), or may be entitled; or
- (d) any withdrawals from my pension savings (except where the withdrawals are used directly for income in retirement).

I accept that the investments to which the promotions will relate may expose me to a significant risk of losing all of the money or other property invested.

I am aware that it is open to me to seek advice from an authorised person who specialise in advising on non-readily realisable securities.

Source: <https://www.fjpinvestment.co.uk/appendix-c/>

SCHEDULE “D”**AI VERIFICATION – CONSIDERATIONS**

There are a number of considerations involving AI verification that the PCMA has identified below.

Checklist of Information to be Submitted/Reviewed

- There should be a checklist of required documents and information to be provided that validates the AI status of an investor (and his/her spouse if such matters are being determine on a household basis)

Eligibility of an AI Verification Service Provider

- The ASC should clearly set out the qualifications and requirements to be an AI Verification Service Provider

Education and Training of an AI Verification Service Provider

- The ASC should clearly set out the education and training requirements for personnel involved with an AI Verification Service Provider.

Accredited AI Verification Provider List to be Publicly Available and Maintained by ASC

- The ASC should maintain a publicly available list of AI Verification Providers on its website.

Maintenance of E&O Insurance by an AI Verification Service Provider

- The ASC should require each AI Verification Service Provider to maintain minimum amounts of errors and omission insurance in the event they have negligently determined an individual is an AI when they are not.

Unique AI Investor Identifier

- The ASC should require each AI Verification Service Provider to maintain a unique AI investor identifier that the individual can use with any registrant in connection with a trade.

Form of AI verification Representation Letter

- The ASC should prepare a form of AI verification letter that is to be provided by an AI Verification Service Provider to a registrant in connection with a trade.

Currency of an AI Verification Letter

- An AI verification letter should be valid for a period of 16 months (January of Year 1 to April 30 of Year 2 when the prior year’s tax returns are to be filed with the Canada Revenue Agency). Afterwards, an individual investor would have to reapply to obtain a new AI verification.

Use of Technology for AI Verification

- The PCMA supports the use of technology to provide such services.

SCHEDULE “E”

SELECT ASPECTS OF C-H ISSUER EXEMPTION

Select Aspects

Select aspects of the C-H Issuer Exemption are set out below for your ease of reference:

- (i) Share transfer restrictions – restrictions on the transfer of shares must be contained in the issuer’s constating documents or in one or more agreements among the issuer and its shareholders.
- (ii) Limitation on number of investors - A C-H Issuer can have no more than 35 investors (i.e., retail investors) exclusive of:
 - AIs,
 - current or former directors or officers of the issuer or of an affiliated entity of the issuer
 - current or former employees of the issuer or of an affiliated entity of the issuer, or current or former consultants, who in each case beneficially own only securities of the issuer that were issued as compensation by, or under an incentive plan of, the issuer or an affiliated entity of the issuer

The C-H Issuer exemption broadens the scope of potential investors to include members of the public. Further consideration must be given to determine how use of the C-H Exemption does not prevent and can coexist with the private issuer exemption under NI 45-106.

- (iii) Limitation on the amount of capital that can be raised - trades made in reliance upon the C-H Issuer exemption cannot exceed \$3,000,000 (the “**Maximum Limit**”) based on the aggregate of all proceeds received by the issuer at any time from trades made in reliance upon the C-H issuer exemption. Simply put this is "once in a lifetime" exemption to be relied upon by an issuer.

Proceeds received by the C-H Issuer from trades made in reliance upon other prospectus exemptions, are not relevant. However, if the C-H Issuer has not filed a report of trade by an AI made in reliance on the AI Exemption, it will be presumed that the trade was made in reliance upon the C-H Issuer Exemption, in which case the proceeds of that trade must be counted for purposes of the aggregate proceeds limit.

The ASC should consider whether the Maximum Limit should be increased to a higher amount, such as \$5MM to reflect the Alberta Governments desire to increase capital raising for SMEs.

- (iv) No selling and promotional expenses - no selling or promotional expenses are paid or incurred in connection with the trade, except for services performed by a dealer registered under securities legislation. However, this does not prohibit legitimate selling or promotional expenses, such as printing, mailing and other administrative or *de minimis* expenses incurred in connection with the trade.
- (v) Offering document – there is no prescribed form of offering document required to be provided to an investor.
- (vi) Information statement to be provided by seller - the seller shall provide an information statement substantially similar to Form 45-501F3 (attached as **Schedule “F”**) to the purchaser of the security at

least *four days* prior to the date of the trade unless, following the trade, the issuer will have not more than five beneficial holders of its securities.

This document arguably would be similar to the Form 45-106F4 provided to investors under the OM Exemption. However, it goes further and poses questions investors should seek to understand as part of their investment decision.

- (vii) *Report of Trade* – there is no report of trade filing required to be made by an issuer or selling securityholder.

Additional Information

For more information about the C-H Issuer Exemption, we refer you to:

- (i) a link to the C-H Issuer Exemption as set out in in the OSC Bulletin dated September 14, 2001 (OSC Bulletin (2001) 24 OSCB 5544) that can be viewed at:
- https://www.osc.gov.on.ca/documents/en/Securities-Category4/rule_20010914_45-501_nmicpf.pdf
- (ii) an article written in 2001 by then Cassels Brock & Blackwell LLP lawyers, Brian Koscak and Peter Dunne, titled, “*Revised OSC Rule 45-501- Ontario's New Exempt Distribution Regime*” that can be review at:
- https://www.casselsbrock.com/Doc/Revised_OSC_Rule_45_501_Ontario_s_New_Exempt_Distribution_Regime_210

Schedule "F"**FORM 45-501F3
FORM OF INFORMATION STATEMENT****Introduction**

Ontario securities laws have been relaxed to make it easier for small businesses to raise start-up capital from the public. Some potential investors may view this change in securities laws as an opportunity to "get in on the ground floor" of emerging businesses and to "hit it big" as these small businesses grow into large ones.

Statistically, most small businesses fail within a few years. Small business investments are among the most risky that investors can make. This information statement suggests matters for you to consider in deciding whether to make a small business investment.

Risks and Investment Strategy

A basic principle of investing in a small business is: **NEVER MAKE A SMALL BUSINESS INVESTMENT THAT YOU CANNOT AFFORD TO LOSE IN ITS ENTIRETY**. Never use funds that might be needed for other purposes, such as a post-secondary education, retirement, loan repayment or medical expenses, and never borrow money to make such an investment. Instead use funds that you already have set aside and that otherwise would be used for a consumer purchase, such as a vacation.

Never believe that the investment is not risky. Among other risk factors, small business investments generally are highly illiquid. In particular, until the company goes public there are significant restrictions on the resale of its securities. Even after a small business goes public there may be very little liquidity in its shares. This lack of liquidity means that, if the company takes a turn for the worse or if you suddenly need the funds you have invested in the company, you may not be able to sell your securities.

Also, it is important to realize that, just because the proposed offering of securities is permitted under Ontario securities law does not mean that the particular investment will be successful. Neither the Ontario Securities Commission nor any other government agency evaluates or endorses the merits of investments.

Analyzing the Investment

Although there is no magic formula for making successful investment decisions, certain factors are often considered particularly important by professional venture investors. Some questions to consider are as follows:

1. How long has the company been in business?
2. Is management putting itself in a position where it will be accountable to investors? For example, is management taking salaries or other benefits that are too large in light of the company's stage of development? Will outside investors have any voting power to elect representatives to the board of directors?
3. How much experience does management have in the industry and in operating a small business? How successful were the managers in previous businesses?

4. Do you know enough about the industry to be able to evaluate the company and make a wise investment?
5. Does the company have a realistic business plan? Does it have the resources to successfully market its product or service?
6. How reliable is the financial information, if any, that has been provided to you? Is the information audited?
7. Is the company subject to any lawsuits?
8. What are the restrictions on the resale of the securities?

There are many other questions to be answered, but you should be able to answer these before you consider investing. If you have not been provided with the information you need to answer these and any other questions you may have about the proposed investment, make sure that you obtain the information you need from people authorized to speak on the company's behalf (e.g., management or the directors) before you advance any funds or sign any commitment to advance funds to the company. It is generally a good idea to meet with management of the company face-to-face.

Making Money on Your Investment

There are two classic methods for making money on an investment in a small business: (1) through resale of the securities in the public securities markets following a public offering; and (2) by receiving cash or marketable securities in a merger or other acquisition of the company.

If the company is the type that is not likely to go public or be acquired within a reasonable time (i.e., a family-owned or closely-held corporation), it may not be a good investment for you irrespective of its prospects for success because of the lack of opportunity to cash in on the investment. Management of a successful private company may receive a return indefinitely through salaries and bonuses but it is unlikely that there will be profits sufficient to pay dividends commensurate with the risk of the investment.

Conclusion

When successful, small businesses enhance the economy and provide jobs for its citizens. They also provide investment opportunities. However, an opportunity to invest must be considered in light of the inherently risky nature of small business investments.

In considering a small business investment, you should proceed with caution and make an informed investment decision based on your circumstances and expectations. Above all, never invest more than you can afford to lose.



September 20, 2019

VIA EMAIL

Alberta Securities Commission
Suite 600, 250–5th St. SW
Calgary, Alberta, T2P 0R4
new.economy@asc.ca

Attention: Denise Weeres, Director, New Economy

Dear Sirs/Mesdames,

Re: ASC Consultation Paper 11-701 – Energizing Alberta’s Capital Market

TMX Limited (“TMX” or “we”) welcomes the opportunity to comment on the staff notice published by the Alberta Securities Commission (“ASC”) entitled *ASC Consultation Paper 11-701 – Energizing Alberta’s Capital Market* (the “Consultation Paper”).

TMX is an integrated, multi-asset class exchange group. TMX’s key subsidiaries operate cash and derivatives markets for multiple asset classes, including equities and fixed income, and provide clearing facilities, data driven solutions and other services to domestic and global financial and energy markets. Toronto Stock Exchange (“TSX”), TSX Venture Exchange (“TSXV”), TSX Alpha Exchange (“Alpha”), The Canadian Depository for Securities, Montreal Exchange, Canadian Derivatives Clearing Corporation, Shorcan Brokers Limited and other TMX companies provide listing markets, trading markets, clearing facilities, data products and other services to the global financial community and play a central role in Canadian capital and financial markets.

All of our recommendations are given bearing in mind the importance of balancing the need to reduce regulatory burden with the equally important mandate to safeguard the public interest and protect investors. Our detailed comments follow, but for ease of reference this letter is divided into the following parts:

1. Reduce the burden associated with raising capital in Alberta
 - a. Reduce audited financial statement requirements in an initial public offering prospectus
 - b. Streamline public offering requirements for reporting issuers
 - c. Reduce the regulatory burden on the independent dealer community
2. Reduce the ongoing regulatory burden on reporting issuers
 - a. Introduce 21st century technology for reporting and disclosure
 - b. Eliminate overlap and duplication in regulatory requirements
 - c. Reduce disclosure requirements in annual and interim filings

- d. Eliminate the requirement to file a business acquisition report
- e. Permit semi-annual reporting for certain issuers

3. Fairness for all Canadian growth companies

1. Reduce the burden associated with raising capital in Alberta

TMX provided detailed comments in July 2017 in response to the Canadian Securities Administrators' ("CSA") consultation paper entitled "*CSA Consultation Paper 51-404 – Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers*" (the "CSA Consultation Paper"). We note that in March 2018, the CSA announced that it had prioritized six policy projects in the near term, and since then has published several proposed amendments to national instruments related to these policy projects. TMX encourages the ASC to coordinate its efforts to respond to comments on the Consultation Paper with existing CSA efforts to respond to comments on the CSA Consultation Paper. Numerous capital markets participants have spent considerable time and resources responding to the CSA Consultation Paper and subsequent requests for comment related to this initiative. TMX continues to support the regulatory changes outlined in its 2017 response letter to the CSA Consultation Paper (the "2017 Letter"), and encourages the ASC to advocate for these changes with the CSA. We discuss the main points from our 2017 Letter in more detail below.

a. Reduce audited financial statement requirements in an initial public offering prospectus

In an initial public offering ("IPO"), venture issuers are required to file two years of audited financial statements in their prospectus. In contrast, non-venture issuers must provide three years of audited financial statements in their IPO prospectus. TMX supports extending the eligibility criteria for the provision of two years of audited financial statements to all issuers. TMX does not believe that this change will adversely impact the ability of investors to obtain useful disclosure about issuers. Furthermore, TMX believes that this change will meaningfully reduce the expense, time and effort associated with becoming a Canadian public company.

Over a three year period, many issuers, especially early stage issuers, experience fundamental changes in the nature of their business or operations. For example, these businesses often experience significant changes in management, debt facilities and business strategy, as well as significant growth. Businesses are valued based on financial projections using the most representative fiscal year, typically, the most recently completed fiscal year. Accordingly, the third year of historical audited financial statements may not be representative of the current business and may be the least meaningful in the valuation of a business.

In 2015, the CSA approved amendments that reduced the historical financial statement disclosure required in IPO prospectuses of venture issuers to two years. This regulatory change lends support to the premise that the third year of financial statements is of limited relevance to investors. This is true irrespective of the size of the issuer. The CSA has acknowledged that there is limited benefit to investors from the third year of audited financial statements when compared with the time and expense incurred by issuers when preparing such statements.

Perhaps as importantly, requiring two years of financial statements in an IPO prospectus will make the Canadian capital markets more attractive to issuers. We note that in the United States, certain companies, including emerging growth companies, are required to include only two years of audited financial statements in their IPO registration statements. For such companies, a

requirement to provide three years of audited financial statements to satisfy Canadian securities law requirements may be a barrier leading the issuer to bypass Canada and to instead go public and list only in the U.S. If a company successfully goes public in the U.S., it may have little incentive to list on a Canadian exchange thereafter. More importantly, listing solely on a U.S. exchange may limit the investment choices for retail Canadian investors. Such investors may have additional costs or limitations associated with buying in the U.S. markets, or may be restricted from buying securities not listed on a Canadian exchange.

Reducing the audited financial statement requirements in an IPO prospectus to two years will not have an adverse impact on investors, but will meaningfully reduce the expense, time and effort associated with becoming a Canadian public company. There are clear benefits to both issuers and the Canadian capital markets as a whole in requiring only two years of audited financial statements in the IPO prospectus. These benefits certainly outweigh any policy objective associated with requiring three years of audited financial statements.

b. *Streamline public offering requirements for reporting issuers*

TMX welcomes any measures to simplify, streamline and eliminate duplicative information in an issuer's continuous disclosure record and short form prospectus, as long as such measures preserve investor protection. We support any ASC involvement in CSA initiatives to explore potential alternative offering models for reporting issuers with disclosure more concise and focused than under the current short form prospectus regime.

TMX strongly supports adopting measures to further streamline the process for at-the-market ("ATM") offerings by reporting issuers. ATM offerings are important tools for reporting issuers to access extra capital without the cost and complexity of a traditional public offering. ATM offerings are a less burdensome, faster and more flexible way to access capital. TMX applauds the CSA's recent request for comments regarding proposed amendments to streamline Canada's ATM offering regime. We refer to our letter submitted in response to this request for comments for our more specific views on these proposed amendments.

Further, TMX supports ASC efforts to harmonize regulations related to capital formation with other members of the CSA. While the Consultation Paper is focused on the Alberta capital markets, we note that reporting issuers typically raise capital throughout Canada. Therefore, we support regulatory efforts to streamline the ability of reporting issuers to raise capital across Canada, not just within a particular province. We encourage the ASC to work with the members of the CSA on any initiatives it introduces in response to the Consultation Paper.

c. *Reduce the regulatory burden on the independent dealer community*

We support a healthy investment dealer sector and we strongly encourage the ASC to consider options to address undue regulatory burden on investment dealers, particularly the independent dealer sector. The investment dealer community is a key intermediary between issuers and capital. Investment dealers face compliance costs associated with rules that are no longer relevant or provide no clear benefit to the market or investors.

For example, we encourage the ASC to consider the 2015 CSA guidance regarding the steps that must be taken to support the reliance on the accredited investor protection exemption. From discussions with marketplace participants, we understand that this guidance has led issuers and/or investment dealers to request and retain extensive documentation and information about investors, which has created additional complexity and expense in the capital formation process. While we acknowledge the investor protection concerns associated with selling exempt securities

to investors that do not qualify as accredited investors, we encourage the ASC to consider whether the measures encouraged in the 2015 guidance are disproportionate to the investor protection concerns this guidance was meant to address. We believe that similar efforts to address undue regulatory burden on both issuers and the independent dealer community will make the public capital markets more attractive to issuers and will facilitate capital formation.

2. Reduce the ongoing regulatory burden on reporting issuers

a. *Introduce 21st century technology for reporting and disclosure*

TMX encourages the ASC to invest in and facilitate technology solutions to reduce the regulatory burden on reporting issuers, particularly with respect to compliance with continuous disclosure obligations. Leveraging modern technology is among the most obvious ways for the ASC to deliver services and regulate industry more efficiently. Importantly, technology solutions have the potential to reduce the time and expense incurred by reporting issuers to comply with continuous disclosure requirements, without reducing the substantive disclosure received by investors.

As discussed above, TSX and TSXV have already shown leadership in this regard, by initiating a review of filing and disclosure obligations they impose on listed issuers to determine how technology can be used to streamline exchange reporting requirements. The current system of continuous disclosure, which is rooted in the core disclosure documents prescribed under National Instrument 51-102 – *Continuous Disclosure Obligations* and various ancillary documents, includes many duplicative data entry requirements and is not well suited to take advantage of recent technological advances. Rather, the prescribed disclosure documents are generally completed in a word processing program, converted to PDF, and siloed off from one another so reporting issuers must enter the same data multiple times, as required in each document. Although reporting issuers are increasingly using technology vendors to record corporate data in cloud-based solutions, in most cases the data must still be manually input into a word processing program in order to create a disclosure document. We recommend that technology be applied to reduce much of the work currently involved in this process by linking this data to approved templates, where appropriate, and automating the disclosure process.

Even incremental changes to reduce the regulatory burden on reporting issuers would have a significant multiplier effect when compared to the investment required to implement such changes. For example, the disclosure requirements regarding executive compensation are found in a number of different places in securities legislation. Significant effort is often involved in tracking these various requirements and complying with them, although the data actually being disclosed is relatively straightforward. Given that most reporting issuers already record compensation matters in an electronic database, it is not difficult to imagine a technology solution that would automatically retrieve the relevant data from such database to eliminate the manual processing tasks required to comply with the current disclosure requirements. In the case of stock options, standardization and automation of disclosure would also potentially make it easier for listed issuers to comply with stock exchange filing requirements, as exchanges also require information regarding outstanding stock options.

Moreover, by unlocking reporting issuer disclosure data from the current format, primarily consisting of PDF documents filed on SEDAR, regulators would be better able to use data to leverage new forms of analytics and artificial intelligence to fulfil their regulatory mandate. That is to say, implementing 21st century technology will not only reduce the burden on capital markets participants, it will manifest benefits for the ASC as well.

Finally, TMX supports permitting a reporting issuer to satisfy the delivery requirements under securities legislation by making continuous disclosure documents (including proxy materials, financial statements and MD&A) publicly available electronically without prior notice or consent. The ASC should require that investors are made aware on an annual basis that such materials are available, and should require that the documents are easily accessible and available for paper delivery at the investor's request. This model would not have an adverse impact on investors.

b. *Eliminate overlap and duplication in regulatory requirements*

An integral part of the ASC's burden reduction efforts should focus on removing duplicative requirements from all continuous disclosure documents. Such efforts will reduce the time and expense incurred to prepare these documents and will make key information easier for investors to locate and understand.

An important example of eliminating duplicative requirements is to eliminate management discussion and analysis ("MD&A") requirements that duplicate International Financial Reporting Standards requirements. Currently, MD&A disclosure regarding financial instruments and key accounting policies appear to be replicated directly from financial statement notes. The focus of the MD&A is to highlight key financial performance measures and why they have changed from the last quarter, trends that management may be anticipating in the next quarter and any material issues with respect to the issuer's current and future liquidity and capital resources. MD&A should not be a detailed rehashing of the individual financial statement line items, nor a duplication of information in the financial statement notes. The focus of the MD&A disclosure should be to highlight key issues that enable the investor to evaluate the business through the eyes of management and to make informed investment decisions.

There are other opportunities to eliminate duplicative requirements from continuous disclosure documents. There are duplicative, or substantially overlapping, form requirements in the financial statements, MD&A, annual information form ("AIF") and management information circular. The relatively simple step of identifying the duplicative disclosure requirements and requiring that such information only be provided in one document would reduce the regulatory burden on reporting issuers while having no impact on the disclosure available to investors.

c. *Reduce disclosure requirements in annual and interim filings*

TMX strongly supports ASC efforts to reduce unduly burdensome disclosure requirements in annual and interim filings. TMX supports consolidating the form requirements for the AIF,¹ MD&A and financial statements into one form. A consolidated document will be beneficial to investors because they will no longer have to locate and access numerous documents when looking for current material information regarding the issuer. A consolidated document would also be beneficial to issuers. It would reduce the risk of inconsistent disclosure across three separate documents and eliminate the duplicative internal efforts and resources associated with preparing and reviewing three different documents with three different, but overlapping, sets of form requirements.

Form requirements, whether for a consolidated document or separate documents, should strongly encourage issuers to focus their disclosure on key and material highlights, material changes from

¹ We note that venture issuers are not required to file an AIF. If the CSA adopts a consolidated form requirement, there should be different versions for venture issuers and non-venture issuers, so that venture issuers are not subject to more onerous continuous disclosure requirements than is currently the case.

prior periods, key trends and important developments about liquidity and capital resources as opposed to simply including boilerplate language to comply with form requirements. The form requirements should be flexible enough that they discourage issuers from using language that is boilerplate, repetitive of information provided in prior reporting periods, duplicative or “filler” so that more meaningful disclosure is presented. Form requirements of this nature are beneficial to investors, as these requirements should encourage issuers to make continuous disclosure documents easier for investors to navigate and understand. Form requirements of this nature will also benefit issuers, as such requirements should enable issuers to more efficiently comply with their disclosure obligations and focus their efforts on disclosure that is useful to investors.

Finally, TMX recommends streamlining the continuous disclosure requirements related to executive compensation, particularly Form 51-102F6 – *Statement of Executive Compensation*. As discussed above, complying with these disclosure requirements requires issuers to engage in significant manual data entry and word processing. Additionally, the resulting disclosure is very complex and may not be useful to retail investors. Therefore, TMX supports efforts aimed at reducing the time and expense incurred by issuers to prepare executive compensation disclosure while ensuring such disclosure is useful to investors.

d. *Eliminate the requirement to file a business acquisition report*

Corporate mergers and acquisitions are a commonplace element of the modern economy, and reducing unnecessary burden associated with this activity is an important pursuit. Therefore, TMX supports ASC efforts to reduce the regulatory burden associated with filing a business acquisition report (“BAR”), including eliminating the requirement for a BAR. TSX and TSXV have canvassed representatives of both issuers and investors for feedback on the BAR requirements. Many stakeholders indicated that that the BAR serves no useful purpose, particularly due to the lapse of time before the information in the BAR is made available to the public.

We note that the CSA has recently published a request for comment related to proposed amendments to the requirements to file a BAR for non-venture issuers. While we support any CSA measures to reduce the regulatory burden on reporting issuers related to filing BARs, we continue to support the elimination of the BAR for both venture and non-venture issuers.

e. *Permit semi-annual reporting for certain issuers*

It is a generally accepted good business practice for issuers to report results on a quarterly basis. Such reporting provides timely information regarding financial results, enabling investors to evaluate business trends and make informed investment decisions. Requiring quarterly reporting forces issuers to periodically, consistently and transparently communicate with their investors about their business. Additionally, there are a variety of market forces that make semi-annual reporting an unattractive option for many reporting issuers.

However, for a subset of junior issuers, the burden associated with quarterly reporting may outweigh both market forces and the benefit investors derive from quarterly reports. For example, early stage development issuers with no significant revenues simply may not have information to report on a quarterly basis. Reporting on a quarterly basis may not make sense for these issuers. Therefore, creating an exception for certain junior issuers to report semi-annually could be a way to reduce burden on those entities, without adversely affecting investor protection. We note that the ability of these issuers to report semi-annually instead of quarterly should be at the option of the issuer.

3. Fairness for all Canadian growth companies

As owner and operator of TSX and TSXV, we sit at the heart of the country's capital markets. From our unique vantage point, we see firsthand the vital role listed companies play in the success and long-term viability of Canada's economy. We must remember that although mega-sized IPOs and companies grab headlines, public companies in Canada are not always big. In fact in Canada, quite the opposite is true; two out of three TSX and TSXV-listed companies are considered small- and medium-sized-enterprises, or SMEs, by Statistics Canada.² These companies span every sector from life sciences and energy, to cannabis and advanced manufacturing. Canadian public companies are creating high-paying, 21st century jobs, attracting foreign investment, and churning out world-leading intellectual property. In many cases, SMEs listed on our markets have gone on to become global leaders. We call these SMEs "growth companies" because they are at the growth stage of their life cycle and tend to have plans to expand in the near future. Secondly, not only are they mostly growth-stage, but our public companies are almost all truly "Canadian": 86% of companies listed on TSX and TSXV have majority Canadian operations, management, and headquarters.³ Lastly, there are literally hundreds of thousands of SMEs in Canada⁴ -- and 99% of them are private.

Therefore, we urge the ASC to take a leadership role in educating relevant levels of government in the importance of Canada's capital markets to the Canadian economy. The ASC can educate government on the importance of policy that treats all Canadian growth companies fairly, regardless of their status as a private company or public company. We note that certain existing government policy treats public growth companies unfairly compared to listed issuers.⁵ This creates incentives for companies to stay private for longer instead of becoming publicly listed. This trend precludes the average investor from participating in the period of fastest growth for a company, and limits the returns from such growth to select high net worth individuals who have access to investing in top tier venture capital funds. Government policy that treats all Canadian growth companies fairly democratizes venture markets for all investors. Finally, we support ASC efforts to encourage Canadians to invest in growth stage companies and believe the ASC can take an important educational role in this regard.

To conclude, we reiterate our support of ASC initiatives to reduce regulatory burden on capital markets participants. TMX's interests are aligned with the ASC's in this regard, as it is vital to our clients and all investors that the capital markets in Alberta remain fair, efficient and competitive. Addressing undue regulatory burden on capital markets participants is important for ensuring the vibrancy of Alberta's capital markets. TMX looks forward to continuing to work as a strong partner of the ASC in enhancing the vibrancy of Alberta's capital markets. In that regard, TMX would be

² Statistics Canada defines SMEs as companies with fewer than 500 employees.

³ Source: TSX/TSXV Market Intelligence Group (MiG) and S&P Capital IQ. "Management" refers to the top 10 management/professionals per Capital IQ.

⁴ Source: Department of Innovation, Science and Economic Development. *Key Small Business Statistics - January 2019* https://www.ic.gc.ca/eic/site/061.nsf/eng/h_03090.html#point1-1

⁵ For example, we refer to the following existing federal government policy (i) enhanced Scientific Research & Experimental Development tax credits and the *Small Business Deduction*, which are both only available only to Canadian controlled private corporations ("CCPCs"), (ii) direct supports for venture-backed private companies such as the Business Growth Fund, which excludes public companies, and (iii) the automatic exemption of CCPCs from new tax treatment of employee stock options, regardless of their size or maturity and at the expense of public growth companies.

pleased to have representatives of its exchanges, TSX and TSXV, participate in in-person consultations regarding the Consultation Paper.

Thank you for the opportunity to comment.

Respectfully submitted,

“Loui Anastasopoulos”

Loui Anastasopoulos
President, Capital Formation & TSX Trust

“Brady Fletcher”

Brady Fletcher
Managing Director & Head of TSX Venture
Exchange

[REDACTED]

[REDACTED] Zachary Storms [REDACTED]
Sent: September 21, 2019 7:47 AM
To: New Economy <New.Economy@asc.ca>
Subject: Changes to the alberta capital markets

Hi,
It is great to see this consultation report and process taking place.
I would like to say I wholeheartedly agree with these brainstorming recommendations:
expanding the accredited investor prospectus exemption to include investors who meet certain experience and educational requirements
facilitating angel investment funds;
facilitating the development of publicly-traded retail funds to enable investment in early stage businesses; •
further facilitating crowdlending and peer-to-peer lending.
I am an active angel investor and am currently organizing an investment summit to introduce new investors to early stage financing and angel investing.
It will be held on February 20, 2020; we will be intaking companies this fall and going through due diligence with them in january/feb leading up to the summit.
I invite you to attend or meet with us to get some feedback on how new regulations could help open up the access the local capital.

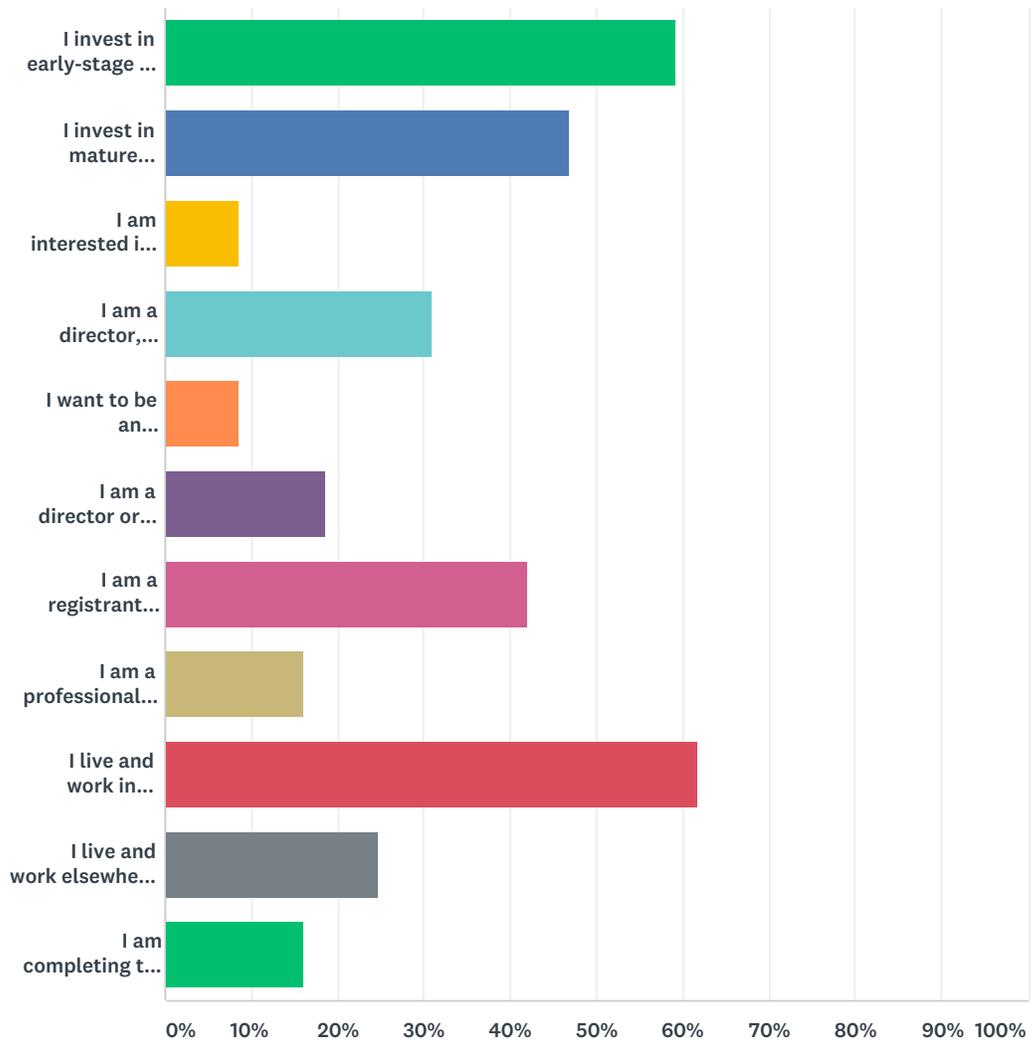
Zack

Zachary J. Storms, PhD, EIT
MBA Candidate
CIHR Science 2 Business Fellow
University of Alberta
Edmonton, Alberta, CANADA

[REDACTED]

Q1 To help us identify the types of market participants responding to this survey, please indicate all of the following that apply to you.

Answered: 81 Skipped: 0



ANSWER CHOICES	RESPONSES	
I invest in early-stage and developing companies.	59.26%	48
I invest in mature companies.	46.91%	38
I am interested in becoming an investor.	8.64%	7
I am a director, officer or founder of a business that has or will seek financing from investors.	30.86%	25
I want to be an entrepreneur.	8.64%	7
I am a director or executive of a reporting issuer (public company).	18.52%	15
I am a registrant under securities legislation in Canada.	41.98%	34
I am a professional adviser (e.g., lawyer, accountant, valuator) to Alberta businesses.	16.05%	13
I live and work in Alberta.	61.73%	50

I live and work elsewhere in Canada.	24.69%	20
I am completing this survey on behalf of an organization or association.	16.05%	13
Total Respondents: 81		

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q2 (optional) To better understand our survey results, please enter any personal information you are comfortable submitting.

Answered: 45 Skipped: 36

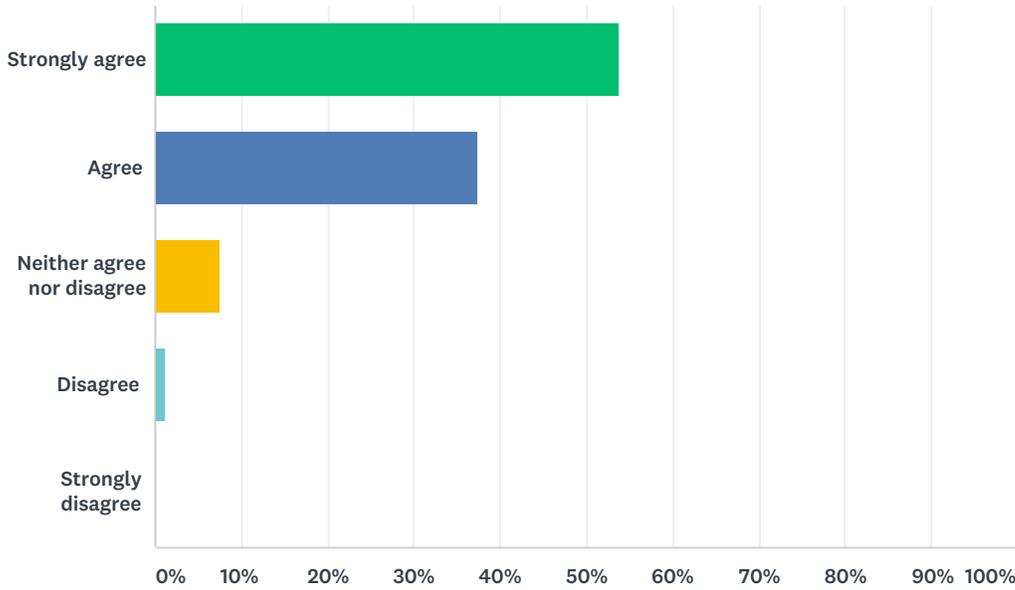
INCLUDES COMMENT LETTERS & SURVEY SUMMARY

ANSWER CHOICES	RESPONSES	
Name	86.67%	39
Company	80.00%	36
Address	0.00%	0
Address 2	0.00%	0
City/Town	82.22%	37
State/Province	80.00%	36
ZIP/Postal Code	0.00%	0
Country	77.78%	35
Email Address	82.22%	37
Phone Number	60.00%	27

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q3 Please indicate the extent to which you agree or disagree with the following statement: It would be helpful if the ASC were to provide information and resources to start-up and early-stage Alberta businesses on capital raising options and the capital raising process.

Answered: 80 Skipped: 1

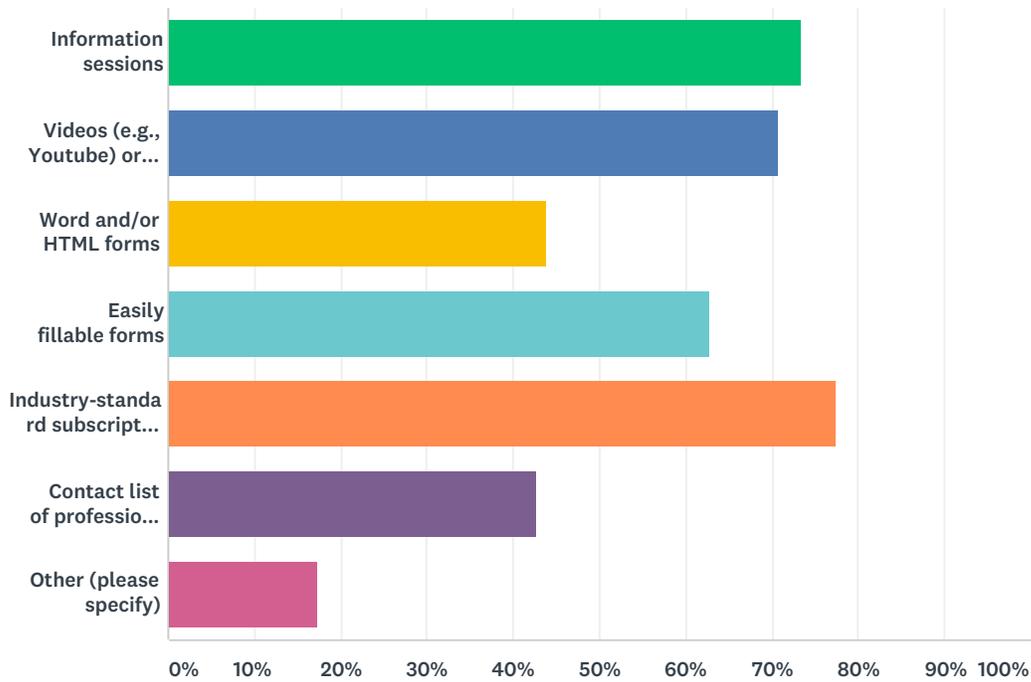


ANSWER CHOICES	RESPONSES	
Strongly agree	53.75%	43
Agree	37.50%	30
Neither agree nor disagree	7.50%	6
Disagree	1.25%	1
Strongly disagree	0.00%	0
TOTAL		80

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q4 If you agreed with question #3, please identify any of the following efforts that you think would be helpful:

Answered: 75 Skipped: 6



ANSWER CHOICES	RESPONSES	
Information sessions	73.33%	55
Videos (e.g., Youtube) or other media	70.67%	53
Word and/or HTML forms	44.00%	33
Easily fillable forms	62.67%	47
Industry-standard subscription agreements	77.33%	58
Contact list of professional advisors	42.67%	32
Other (please specify)	17.33%	13
Total Respondents: 75		

Question 4 "Other":

collaborate with other organizations in the ecosystem where it might promote excellence, reduce "friction"

Mentorship program

Eliminate excessive turnaround time before approvals

Provide a bureau of start up (private) to small cap (public) specialists (like the SEC) that can answer questions from the public. More informed public/start up community before using a lawyer or others.

Facilitated events to connect investors (of all sizes) to investment opportunities that would otherwise be hard to find (i.e. not publicly traded companies)

Website with noted professionals along with investment criteria.

It all depends on how useful the content is. The medium is less relevant (as long as the medium is free - therefore paid advisors are off the table).

A section on the ASC website that provides guidance for start-up, private companies, etc. that explains what the exempt market is, how to raise capital using the various exemptions, and describing what it means to be an issuer. This could include a Q&A and an email address that people can use if they have specific questions.

Businesses need capital... investors have capital... We should make it easier for us to find each other and not keep us apart.

Help-line for common questions - see CFA Societies Canada/Canadian Advocacy Council comment letter.

RELEVANT CONTENT is king, not the medium.

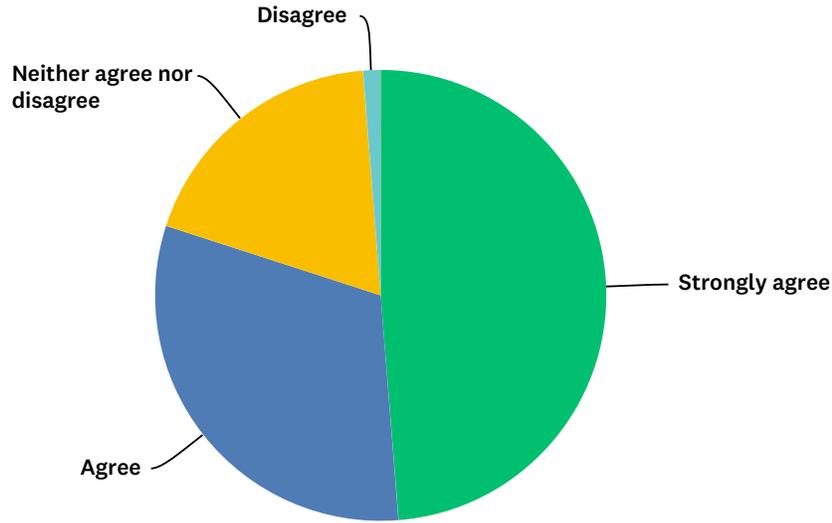
clearer website information

Keep it simple for all of the above. Judging by the 37 page 11-701 ASC staff are paid by the hour. I'll bet 11-701 could be given twice the punch by cutting it in half. Also, simply and clearly, summarize what constitutes fraud, what happens when fraud occurs (2 pages maximum) AND THEN PROSECUTE FRAUD

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q5 Please indicate the extent to which you agree or disagree with the following statement: It would be helpful if the ASC were to provide more general information to investors considering investing in start-ups and early stage Alberta businesses.

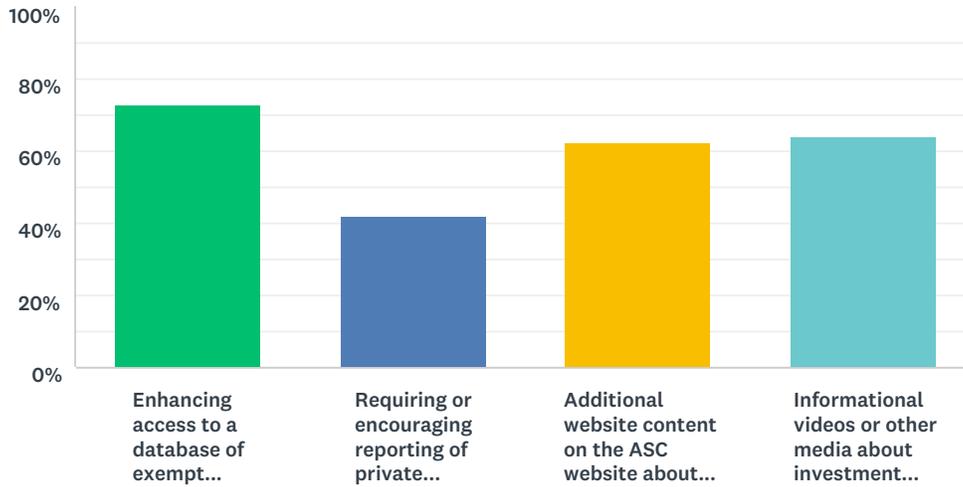
Answered: 80 Skipped: 1



ANSWER CHOICES	RESPONSES	
Strongly agree	48.75%	39
Agree	31.25%	25
Neither agree nor disagree	18.75%	15
Disagree	1.25%	1
Strongly disagree	0.00%	0
TOTAL		80

Q6 If you agreed with question #5, please identify any of the following efforts that you think would be helpful:

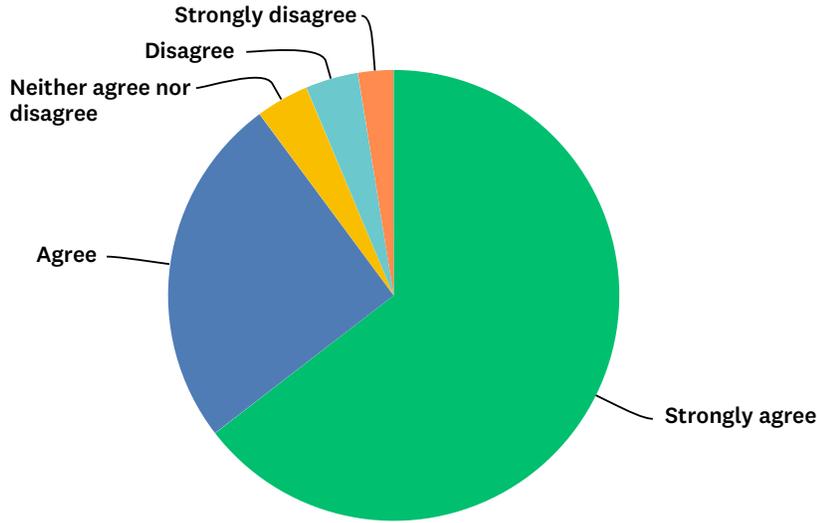
Answered: 67 Skipped: 14



ANSWER CHOICES	RESPONSES	
Enhancing access to a database of exempt financings	73.13%	49
Requiring or encouraging reporting of private financings	41.79%	28
Additional website content on the ASC website about investment considerations and risks	62.69%	42
Informational videos or other media about investment considerations and risks	64.18%	43
Total Respondents: 67		

Q7 Please indicate the extent to which you agree or disagree with the following statement: It would be helpful if the ASC were to expand the definition of accredited investor to include educated, experienced investors.

Answered: 79 Skipped: 2

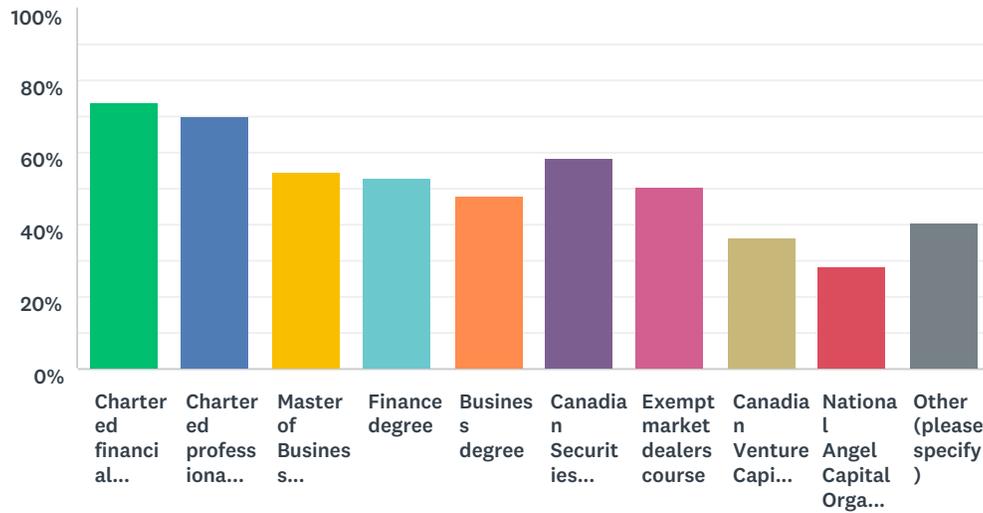


ANSWER CHOICES	RESPONSES	
Strongly agree	64.56%	51
Agree	25.32%	20
Neither agree nor disagree	3.80%	3
Disagree	3.80%	3
Strongly disagree	2.53%	2
TOTAL		79

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q8 If the ASC were to expand the accredited investor exemption to include educated, experienced investors, what type of education, coupled with experience, would be appropriate?

Answered: 77 Skipped: 4



ANSWER CHOICES	RESPONSES
Chartered financial analyst designation (CFA)	74.03% 57
Chartered professional accountant designation (CPA)	70.13% 54
Master of Business Administration degree (MBA)	54.55% 42
Finance degree	53.25% 41
Business degree	48.05% 37
Canadian Securities Institute course	58.44% 45
Exempt market dealers course	50.65% 39
Canadian Venture Capital Association (CVCA) Private Capital Investment School	36.36% 28
National Angel Capital Organization (NACO) Academy	28.57% 22
Other (please specify)	40.26% 31
Total Respondents: 77	

Question 8 "Other":

Vetted experience would be the most important and the various designations could vary.

lawyer

Non-financial industry education qualifications; for example professional geologist who know more about resources than most of the financial guys; also people will have invested for number of years or more; anybody should be able to partake to make a more equitable and less elitist albeit with proper disclosure

Experience with running a successful business

Accredited Investor Course

"Education" doesn't inhibit the overpowering force of greed. Whether you are 18 or 88 you have to sign a waiver forgoing recourse in the event the investment does not work for the investor. Onerous paperwork and regulation in this area inhibit the process. Remember as well, that in negative interest rate environment the retired elderly will be seeking returns and yield to offset eating into their and they should be allowed to do that after their signature or power of attorney's signature waiving responsibility of those providing the opportunity

Include past experience that is applicable as a capital markets and/or securities industry professional (i.e. I was a TMX listed company regulator and was a VP Investment Banking (PDO & CIS)

Include past experience that is applicable as a capital markets and/or securities industry professional (i.e. I was a TMX listed company regulator and was a VP Investment Banking (PDO & CIS)

If an investor demonstrates a good understanding of the company or business he or she is investing in, they should be allowed to invest.

MBA, CPA and CFA do not suggest competence in any way.

5 years experience investing in alternatives

Five years experience investing in alternatives (including private markets)

look at the individuals experience in investing in the past in both Public and Private investing

must have a heart beat

Law degree, Prof Engineer, University professor

Custom online training course created by ASC with low barrier to entry. Online, self-paced, able to complete in a weekend.

You should create an ASC course that educates ANYONE on the risks private equity investment. Anyone who completes the course and passes the test can be an accredited investor. You should not be in the business of telling people what they can and can't do with their money - you should be educating them. I don't think a designation/level of education means anything if there are no audited financials and full disclosure to investors. I think that if someone is properly advised and they are aware of all the risks and

can see the audited financials they can decide for themselves if they like the investment. ASC shouldn't control who can invest in what.. it is our money.

Align to requirements in 31-103 and/or extend to all past securities registrants.

Chartered Business Valuator (CBV)

Experience in investing is key

Securities lawyer helping companies raise money

Professional experience in new venture development, finance & investments - notwithstanding professional credentials.

Entrepreneur or founder of a business

Any degree.. shows they can read

Investment experience of 5 years in respected categories

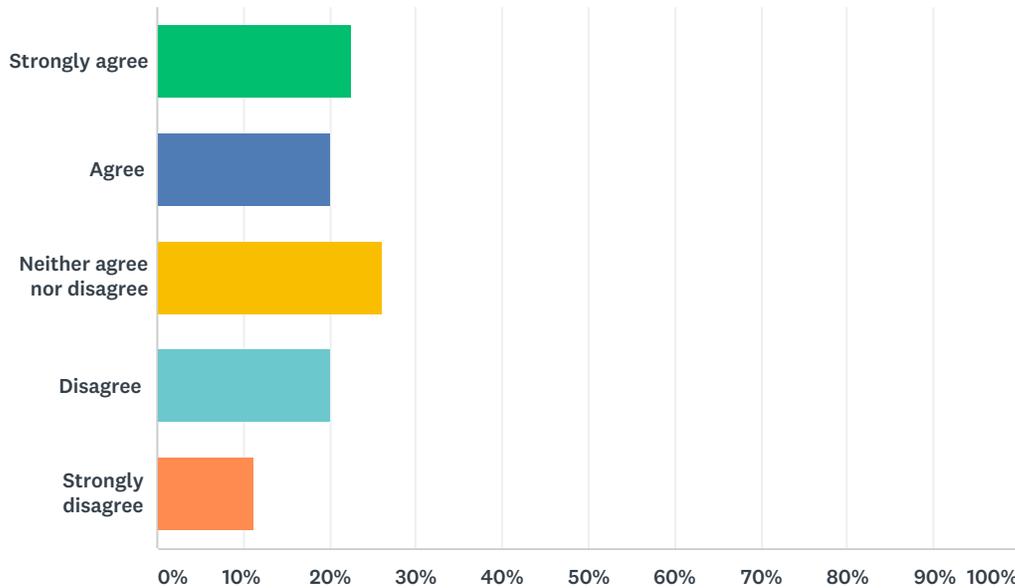
previous exempt market investing

none of the above requirements

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q9 Please indicate the extent to which you agree or disagree with the following statement: A technology solution (e.g., a database of accredited investors) should be pursued to address the compliance challenges associated with confirming accredited investor (or similar) status.

Answered: 80 Skipped: 1

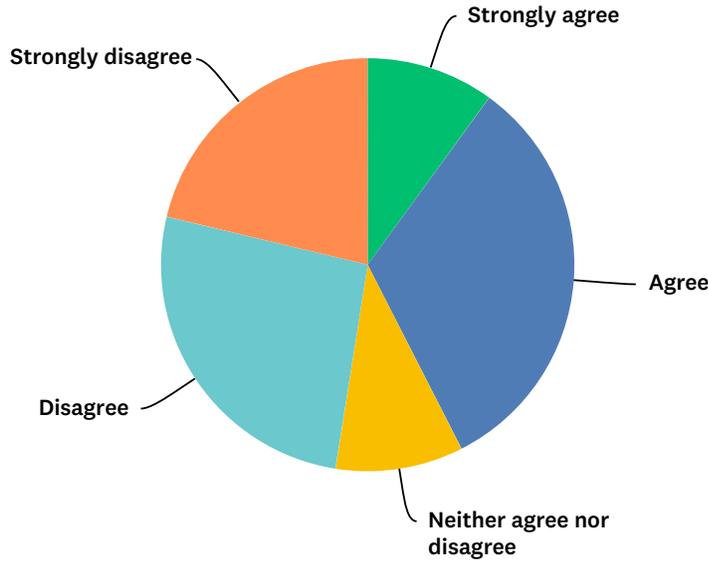


ANSWER CHOICES	RESPONSES	
Strongly agree	22.50%	18
Agree	20.00%	16
Neither agree nor disagree	26.25%	21
Disagree	20.00%	16
Strongly disagree	11.25%	9
TOTAL		80

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q10 Given that the policy rationale for the accredited investor exemption is “ability to withstand loss”, if the accredited investor exemption was expanded, would it be appropriate to limit the amount that an experienced, educated investor could lose?

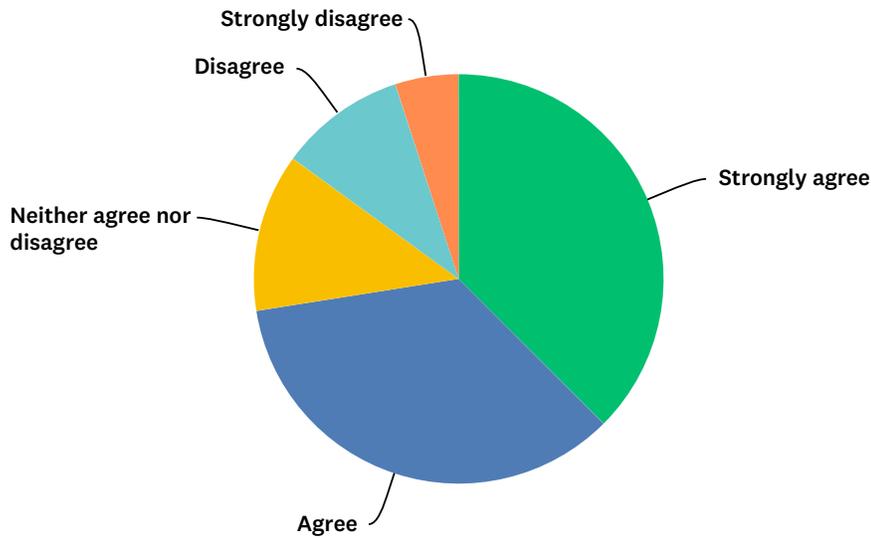
Answered: 80 Skipped: 1



ANSWER CHOICES	RESPONSES	
Strongly agree	10.00%	8
Agree	32.50%	26
Neither agree nor disagree	10.00%	8
Disagree	26.25%	21
Strongly disagree	21.25%	17
TOTAL		80

Q11 Please indicate the extent to which you agree or disagree with the following statement: The ASC should reduce the compliance costs for registered dealers when dealing with accredited investors e.g., providing an exemption from the know-your-client and suitability requirements when a registered dealer is dealing with an experienced accredited investor.

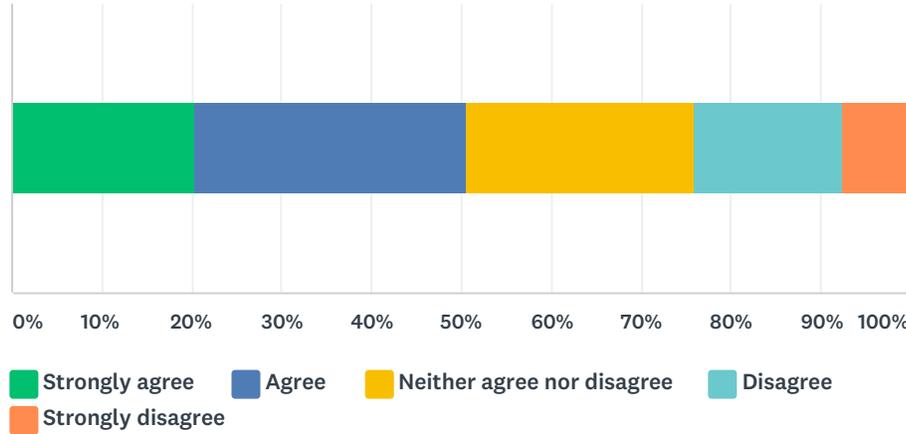
Answered: 80 Skipped: 1



ANSWER CHOICES	RESPONSES	
Strongly agree	37.50%	30
Agree	35.00%	28
Neither agree nor disagree	12.50%	10
Disagree	10.00%	8
Strongly disagree	5.00%	4
TOTAL		80

Q12 Please indicate the extent to which you agree or disagree with the following statement: The ASC should adopt a registration exemption to exempt finders, in certain circumstances, from the requirement to be registered as a dealer.

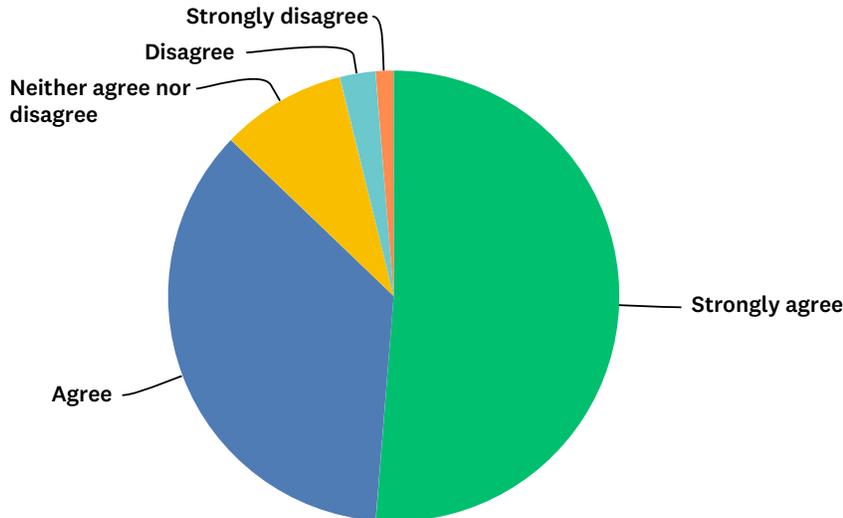
Answered: 79 Skipped: 2



ANSWER CHOICES	RESPONSES	
Strongly agree	20.25%	16
Agree	30.38%	24
Neither agree nor disagree	25.32%	20
Disagree	16.46%	13
Strongly disagree	7.59%	6
TOTAL		79

Q13 Please indicate the extent to which you agree or disagree with the following statement: It would be helpful if securities regulators addressed the compliance burdens of registered dealers.

Answered: 78 Skipped: 3



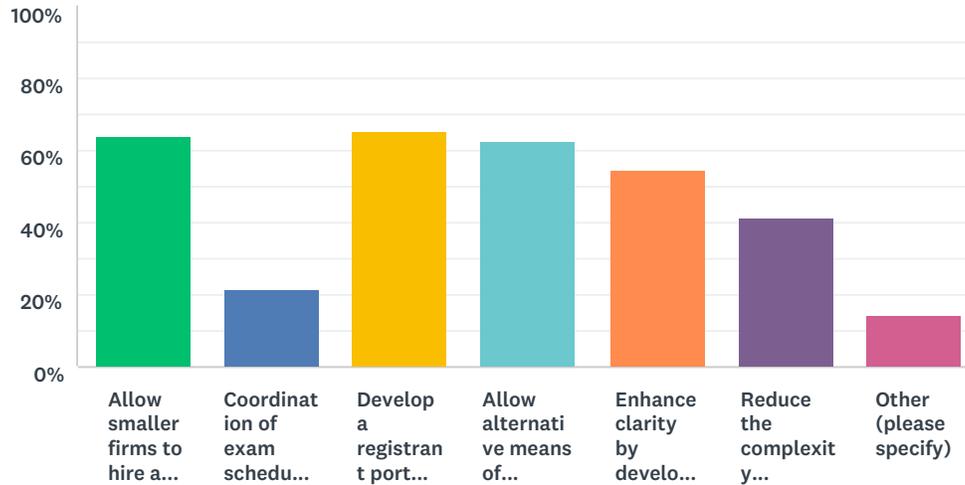
ANSWER CHOICES	RESPONSES	
Strongly agree	51.28%	40
Agree	35.90%	28
Neither agree nor disagree	8.97%	7
Disagree	2.56%	2
Strongly disagree	1.28%	1
TOTAL		78

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q14 If you think that the compliance burden of registered dealers should be addressed, please identify any of the following efforts that you think would be helpful:

Answered: 75 Skipped: 6

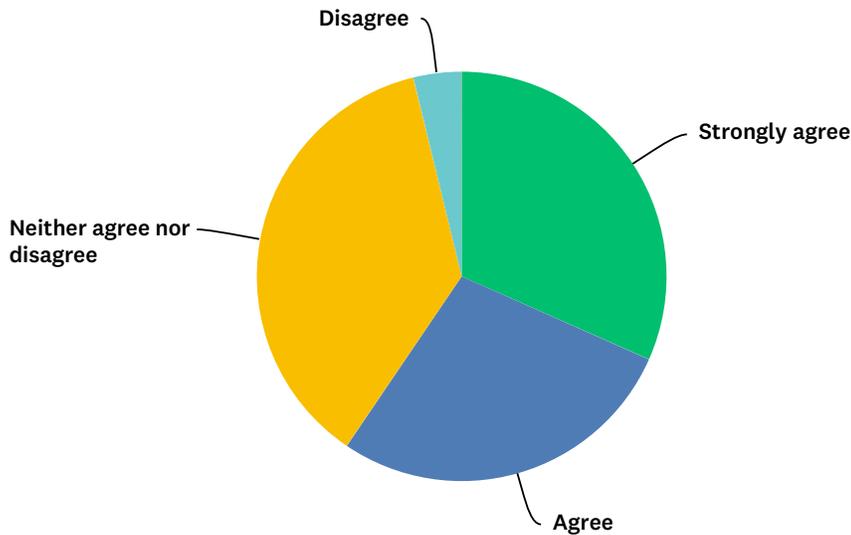


ANSWER CHOICES	RESPONSES	
Allow smaller firms to hire a part-time chief compliance officer	64.00%	48
Coordination of exam schedules among securities regulators	21.33%	16
Develop a registrant portal so dealers can share documents with multiple regulators	65.33%	49
Allow alternative means of demonstrating proficiency	62.67%	47
Enhance clarity by developing a rulebook for exempt market dealers	54.67%	41
Reduce the complexity associated with having many trading order types	41.33%	31
Other (please specify)	14.67%	11
Total Respondents: 75		

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q15 Please indicate the extent to which you agree or disagree with the following statement: Further steps should be taken to facilitate angel investor investment funds.

Answered: 79 Skipped: 2

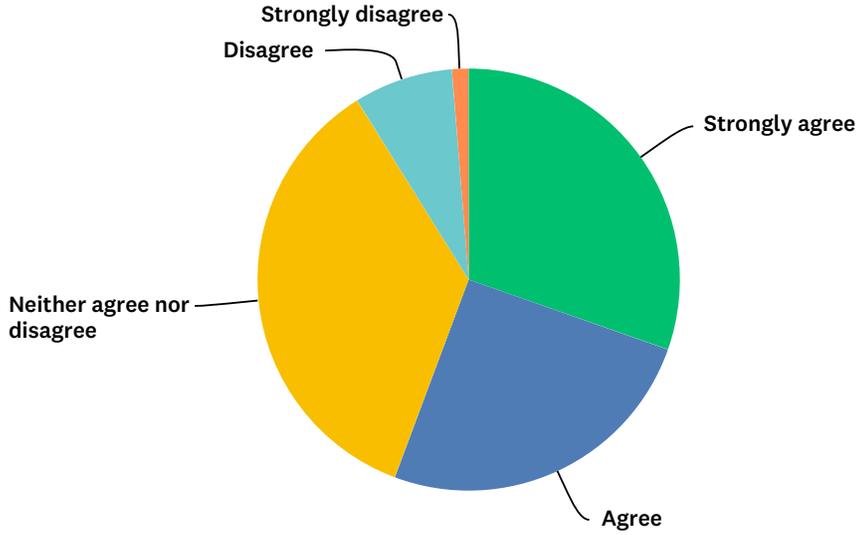


ANSWER CHOICES	RESPONSES	
Strongly agree	31.65%	25
Agree	27.85%	22
Neither agree nor disagree	36.71%	29
Disagree	3.80%	3
Strongly disagree	0.00%	0
TOTAL		79

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q16 Please indicate the extent to which you agree or disagree with the following statement: A publicly traded fund focused on innovative businesses and available to retail investors would be beneficial.

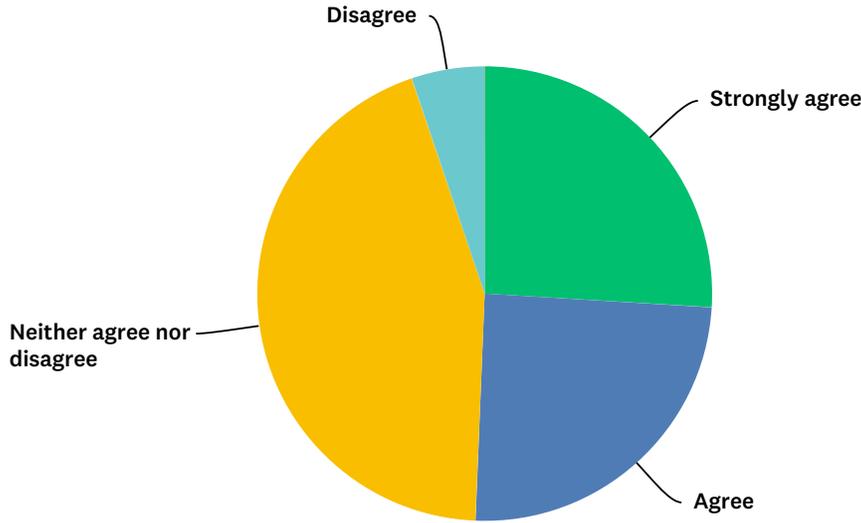
Answered: 79 Skipped: 2



ANSWER CHOICES	RESPONSES	
Strongly agree	30.38%	24
Agree	25.32%	20
Neither agree nor disagree	35.44%	28
Disagree	7.59%	6
Strongly disagree	1.27%	1
TOTAL		79

Q17 Please indicate the extent to which you agree or disagree with the following statement: Efforts need to be taken to address the regulatory burden associated with Alberta businesses trading in foreign capital markets.

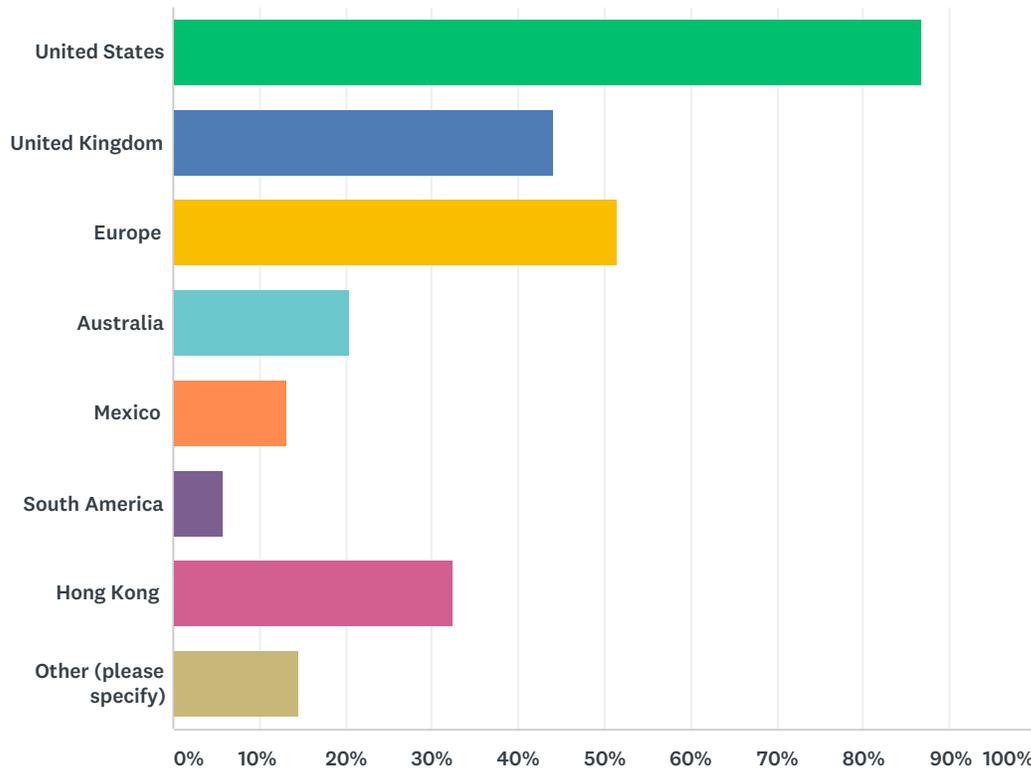
Answered: 77 Skipped: 4



ANSWER CHOICES	RESPONSES	
Strongly agree	25.97%	20
Agree	24.68%	19
Neither agree nor disagree	44.16%	34
Disagree	5.19%	4
Strongly disagree	0.00%	0
TOTAL		77

Q18 If efforts should be taken to address the regulatory burden associated with accessing foreign capital markets, which foreign markets are most significant:

Answered: 68 Skipped: 13



ANSWER CHOICES	RESPONSES
United States	86.76% 59
United Kingdom	44.12% 30
Europe	51.47% 35
Australia	20.59% 14
Mexico	13.24% 9
South America	5.88% 4
Hong Kong	32.35% 22
Other (please specify)	14.71% 10
Total Respondents: 68	

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Question 18 “Other”:

I'm not certain where, historically, capital has been accessed, but it must be those jurisdictions where the regulatory framework is similarly designed to protect investors

No opinion

Asia, African continent

Singapore

Asian markets

Japan and China

South East Asia

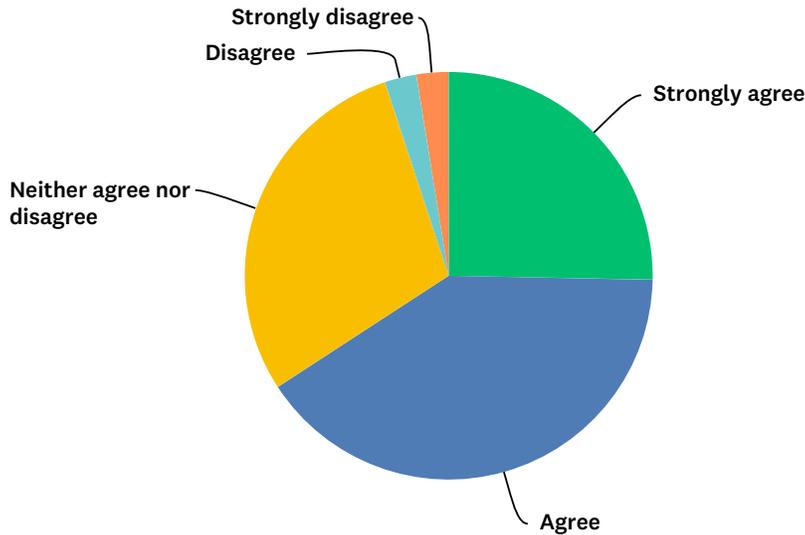
Asia in general

What can ASC do to address regulations in foreign markets?

New markets are starting to develop in areas like India and parts of SE Asia due to tech booms

Q19 Please indicate the extent to which you agree or disagree with the following statement: An organized marketplace for secondary trading among institutional or accredited investors in the securities of non-public companies should be pursued.

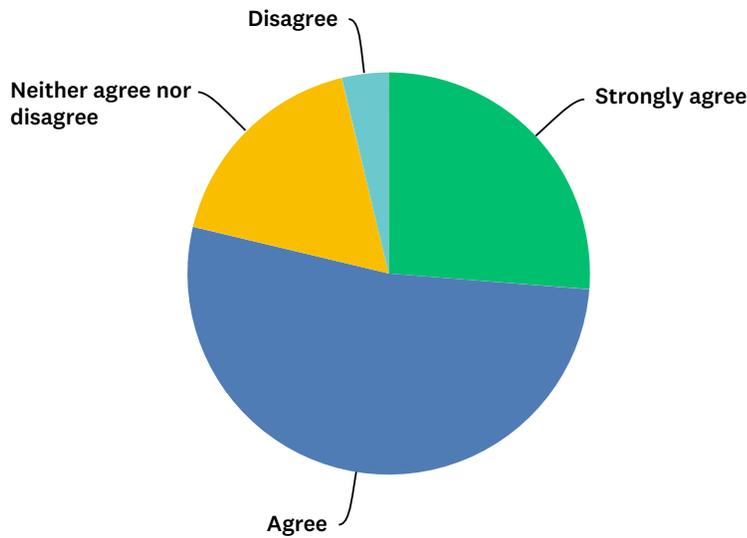
Answered: 79 Skipped: 2



ANSWER CHOICES	RESPONSES	
Strongly agree	25.32%	20
Agree	40.51%	32
Neither agree nor disagree	29.11%	23
Disagree	2.53%	2
Strongly disagree	2.53%	2
TOTAL		79

Q20 Please indicate the extent to which you agree or disagree with the following statement: Similar to the United States, the ASC should allow a semi-public market that allows secondary trading by retail investors of the securities of companies that provide less ongoing disclosure than typically required of a public company (reporting issuer).

Answered: 80 Skipped: 1

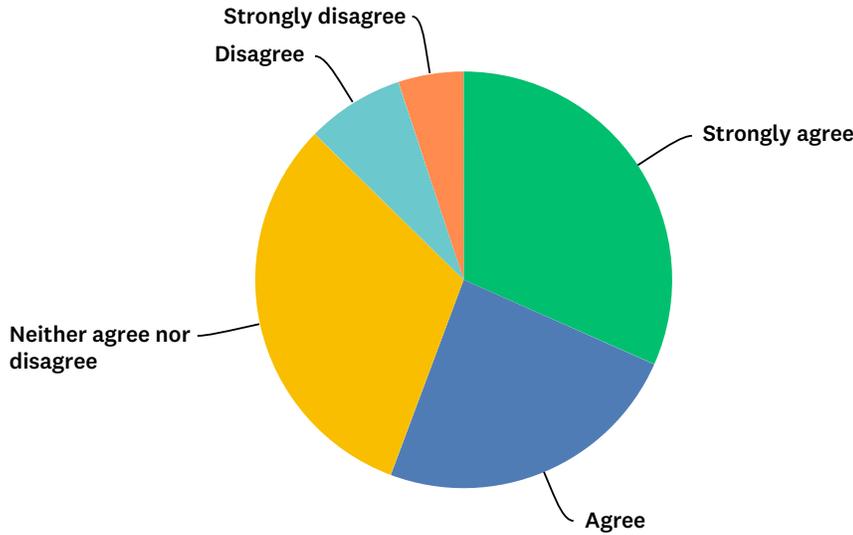


ANSWER CHOICES	RESPONSES	
Strongly agree	26.25%	21
Agree	52.50%	42
Neither agree nor disagree	17.50%	14
Disagree	3.75%	3
Strongly disagree	0.00%	0
TOTAL		80

INCLUDES COMMENT LETTERS & SURVEY SUMMARY

Q21 Please indicate the extent to which you agree or disagree with the following statement: Further efforts should be taken to facilitate crowd-lending and peer-to-peer lending in Alberta.

Answered: 79 Skipped: 2



ANSWER CHOICES	RESPONSES	
Strongly agree	31.65%	25
Agree	24.05%	19
Neither agree nor disagree	31.65%	25
Disagree	7.59%	6
Strongly disagree	5.06%	4
TOTAL		79

Q22 Please identify any other recommendations you have and include any other comments you wish to share. (If you have extensive comments or ideas to share with the ASC, please consider submitting a comment letter to: new.economy@asc.ca.)

Answered: 23 Skipped: 58

Question #22 "Other Recommendations":

the potential for technology to both increase the quality (but not the burden) of oversight and at the same time, to reduce the friction, should be top of mind. the Business Council of Alberta has made recent announcements/suggestions that are in line with what you are testing for here; you should contact them (Adam Legge, Scott Crockatt)

Drop limits for exempt purchases when dealing with a registrant. They already are subject to suitability requirements. Drop concentration limits.

In many situations raising money in Alberta is not adequate, in particular there is a need to raise money typically in BC, Ontario, Alberta ± others so ongoing reciprocal agreements need to be at the forefront of thought

Emphasise the "know your client rule", particularly around sophistication in the markets. But understand in the end, it's their money. We CANNOT stop adults from making their own investment decisions. The investor needs to assume all the risk!!! Understand that 65 to 85 year olds will be pursuing returns in the stockmarkets and should have the freedom to do that...rather than telling them in be in government bonds with negative interest rates. Remove the red tape and bureaucratic paper shuffle and promote Entrepreneurship!!!

Increase the disclosure requirements for private companies (make same as public companies but lesson annual audit and other AGM requirements) which have exempt investments from any investor utilizing a portal at the ASC or SEDAR or other site that is for this purpose.

Our letter was filed on Sep 9.

I think the auditing procedure is so taxing in AB versus other jurisdictions that why would anyone do business in AB. There is a work together mentality in other provinces as opposed to AB. In AB it feels like if the auditor does not come out with a set number of deficiencies then they did not do there job.

Entrepreneurs and small business people don't have the time or resource to investigate and know for sure that someone is an accredited investor. The burden and responsibility must lie with the investor that they read the documents provided and when they mark a certain box, they must be telling the truth and then be accountable to it, not the entrepreneur or business person raising the funds. This is a fundamental issue that is a problem now and puts the business person in a vulnerable position via a vis regulation and enforcement. Good people with good intention who employ people as a result of raising that capital are put in a position of liability that is inappropriate when one of the accredited investors complains and potentially destroys that business persons reputation. There should also be removal of people's names who have been sanctioned in the past as AP pardon if they have paid their fine and Waited out their time, especially due to the issue stated in the previous paragraph.

Regulators need to be much more active on the education front and less so on the enforcement front. Put industry participants in schools, not jails. Bill for education and replace fines with fees for raising the education and knowledge levels across the industry/country.

Adopt BCI 45-535 in Alberta

Adopt the BC 45-535 Crowdfunding Exemption

I will submit a comment letter. Kind Regards, JKA.

please reduce the paperwork for the private exempt industry at all levels please clarify outside business activities and be as flexible as possible to allow DR's to have greater diversification of income

Make the market less burden[some]

ASC should be prepared to take immediate action on private fund managers who are showing signs of mismanagement or fraud to protect investor capital and not wait (years) for courts to become involved.

Make the public company organization & listing requirement very simple, less expensive & less time consuming.

The valuation, due diligence and risk assessment of the issuer's product should be reviewed along with the organization that facilitates retain investor registered plans.

Edgeworth and Prism were a HUGE embarrassment to the ASC. Develop synergies and skills to bring those responsible to account and recover investor funds!

Have a single securities regulator for the country. Having provincial regulators is inefficient and costly - especially for smaller companies. Having been involved with early stage companies in Ontario and the US - we would not bother to separately register in Alberta to seek investment and while I have considered Alberta investments, I view the regulation of early stage resource companies there as too light and there is are too few preferred sector (medical device) opportunities for me to invest in Alberta early stage companies. The lack of investment in sectors other than resources is largely a political failure - lack of foresight and lack of investment when times were good.

Current foreign land ownership restrictions can make it almost impossible for foreign investors to invest in Canada.

I will. But my questions to ASC are? Exempt marked finder - would that be a securities salesman? Define what you're talking about when asking a question. Why should ASC give an exempt finder a registration exemption.

Incentivize private investors to take risks in start up and early technology companies by providing greater tax incentives to do so