

ANNEX A-2

KEY PROVISIONS OF THE PROPOSED CROWDFUNDING PORTAL REQUIREMENTS

The following is a summary of the proposed registration framework. We are soliciting comments on the terms and conditions of the proposed framework. The summary is divided into the following sections:

General topic	Specific discussion areas
1. Registration	<ul style="list-style-type: none">• Category of registration
2. Membership in a self-regulatory organization (SRO)	<ul style="list-style-type: none">• SRO Membership requirement
3. General description of portal activities	<ul style="list-style-type: none">• Required and prohibited portal activities, including:<ul style="list-style-type: none">• providing specific recommendations or advice to investors,• soliciting purchases or sales of securities offered on their platform,• compensating employees or agents to solicit the sale of securities on their platform, and• holding or handling investor funds/securities.
4. General portal obligations	<ul style="list-style-type: none">• Required and prohibited portal activities, including:<ul style="list-style-type: none">• Reporting and record-keeping ,• Minimum capital and insurance,• Confirmation of transaction,• Issuer information,• Accounts and electronic delivery• Completion of offerings, cancellations, reconfirmations, and• Notice of investment commitment.
5. Portal due diligence	<ul style="list-style-type: none">• Background checks on issuers and their directors, executive officers, control persons and promoters• Due diligence on the issuer's business
6. Fees and conflicts of interest	<ul style="list-style-type: none">• Disclosure requirements

General topic	Specific discussion areas
7. Advertising limits	<ul style="list-style-type: none"> • Permitted and prohibited advertising activities
8. Investor education and screening	<ul style="list-style-type: none"> • Portal obligations to educate investors and appropriate risk disclosure
9. Other services	<ul style="list-style-type: none"> • Online communication requirements
10. Portal reporting	<ul style="list-style-type: none"> • Regulatory filings and ongoing reporting requirements
11. IIROC execution-only (OrderX) platforms	<ul style="list-style-type: none"> • No dual registration (OrderX platforms not permitted to use crowdfunding prospectus exemption)
12. EMDs operating portals	<ul style="list-style-type: none"> • Consideration of whether EMDs should be permitted to operate portals
13. Secondary trading	<ul style="list-style-type: none"> • Prohibition of secondary trading activities through portal

Issue	Proposed framework	Comments
1. Registration		
<ul style="list-style-type: none"> Under what category should funding portals (portals) be registered? 	<ul style="list-style-type: none"> Offerings made in reliance on the proposed new crowdfunding prospectus exemption (crowdfunding exemption) must be conducted through a portal registered as a restricted dealer. The portal may only act as an intermediary in connection with offerings pursuant to the crowdfunding exemption (no other exemptions or secondary transactions). A non-resident portal that carries on business in Ontario (either by facilitating offerings by Ontario issuers and/or by facilitating offerings to Ontario investors) must also be registered as a restricted dealer. Non-resident portals will be required to ensure funds collected from Ontario investors will be held with a Canadian financial institution until disbursed to the issuer. Similar to other registrants, a portal will be required to act honestly, fairly and in good faith. 	<ul style="list-style-type: none"> A key investor protection element of the new crowdfunding exemption is the requirement for registration of the portal. Registration is necessary to address, among other things, potential integrity, proficiency and solvency concerns that may apply to funding portals and the persons operating them, as well as potential concerns relating to conflicts of interest and self-dealing. The registration requirement is also intended to serve as a safeguard against funding portals being used to facilitate fraudulent offerings of securities through the internet. In response to the request for comments on OSC Staff Consultation Paper 45-710 <i>Considerations for New Capital Raising Prospectus Exemptions</i> (Consultation Paper), most commenters supported some form of portal registration, although staff received disparate views regarding the appropriate level of regulatory oversight. A number of commenters indicated that we should not be too restrictive and that we should permit different business models.
2. Membership in a self-regulatory organization (SRO)		
<ul style="list-style-type: none"> Is SRO membership required for portals? 	<ul style="list-style-type: none"> A portal is not required to be a member of the Investment Industry Regulatory Organization of Canada (IIROC) or another SRO. 	

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3. General description of portal activities		
<ul style="list-style-type: none"> • What portal activities are prohibited? 	<ul style="list-style-type: none"> • A portal will not be able to: <ul style="list-style-type: none"> ○ provide specific recommendations or advice to investors about specific securities, ○ solicit purchases or sales of securities offered on its platform (other than through posting an offering on its platform), ○ compensate employees or agents to solicit the sale of securities on their platform, or ○ hold or handle investor funds/securities. • A portal will not be able to act as, or be registered as, an EMD, investment dealer, portfolio manager or investment fund manager. • A portal may assist issuers with the creation of offering documents and other documents required by the portal (such as a business plan or shareholders' agreement) in respect of an offering prior to posting on its platform. • A portal may not comment on the merits of, or expected returns from, an investment to investors (since this would constitute a recommendation or advice). • A portal may apply objective criteria to limit the offerings on its platform, provided the criteria are disclosed, applied consistently and would not be viewed by a reasonable person as a recommendation or endorsement. 	<ul style="list-style-type: none"> • Portals will not be able to hold or deal with client funds or securities. Portals may, to a limited extent, be able to provide directions as to when and to whom client funds may be released. • We have sought specific comment as to whether the current restriction on registrants holding, handling or dealing with client funds or securities is appropriate. • Provisions are included within the framework to ensure portals require reputable third parties to handle funds. Funds would have to be held externally in a trust or escrow arrangement until the offering minimum has been achieved. • As discussed below, we propose that portals be subject to minimum net capital and insurance requirements. We propose to set these requirements similar to the levels prescribed for EMDs. We have sought feedback in the Request for Comment on these issues. • Where a portal has a financial stake in a particular issuer, it may have an incentive to promote that issuer over other issuers on the portal. We acknowledge this is a potential concern. However, we also recognize that many start-ups and small and medium enterprises (SMEs) may have limited resources to pay portal fees. We would permit portal fees to be

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	<ul style="list-style-type: none"> • A portal must deny access to an issuer if it has reason to believe that the issuer or its offering is fraudulent. • A portal must withdraw any offering if fraud is suspected during the offering period and report immediately any withdrawal to the principal regulator. • The portal will deny access to an issuer if, based upon its review of the issuer's application and information obtained through background checks, it believes that the business of the issuer may not be conducted with integrity and in the best interests of security holders because of, among other reasons, the conduct of, <ul style="list-style-type: none"> (i) the issuer, or (ii) any of the issuer's executive officers, directors, promoters, or control persons. This test is modeled on the prospectus receipt refusal ground in s. 61(2)(e) of the <i>Securities Act</i> (Ontario). • A portal may not: <ul style="list-style-type: none"> ○ assist with the completion of an issuer's subscription documentation, if any, other than providing assistance with respect to form and information requirements, ○ clear or settle any trades in an issuer's securities, ○ invest in any issuer or underwrite any issuer, (subject to receiving fees in the form of securities), ○ collect know-your-client information other than information necessary to identify investors, comply with anti-money 	<p>paid in securities of the issuer, provided this compensation is fully disclosed to investors, and the investment would not result in the portal owning or controlling more than 10% of the issuer.</p> <ul style="list-style-type: none"> • We have sought specific comment as to whether we should allow portal fees to be paid in securities of the issuer.

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	<p>laundering requirements and determine eligibility for prospectus exemptions,</p> <ul style="list-style-type: none"> ○ participate in any referral arrangements as defined in section 13.7 of NI 31-103, except that a portal may compensate a third party for referring an issuer, ○ lend money, extend credit or provide margin to any investor or recommend that an investor use borrowed money to finance any purchase of a security, or ○ accept or handle funds for the purchase of an issuer’s securities or hold assets of investors (funds will be held externally by a reputable third party, in a trust or an escrow arrangement). 	
4. General portal obligations		
<ul style="list-style-type: none"> • What are the portal obligations? 	<p><u>Reporting and record-keeping</u></p> <ul style="list-style-type: none"> • Portals must comply with general registrant requirements, including account opening, reporting, record-keeping and record-retention requirements, analogous to those imposed on EMDs. <p><u>Minimum capital and insurance</u></p> <ul style="list-style-type: none"> • Portals will be subject to a minimum net capital requirement of \$50,000 and a fidelity bond insurance obligation providing for coverage of at least \$50,000. (The fidelity bond requirement is intended to help insure against the loss of investor funds that may occur if, for example, a portal or any of its officers or directors breach the prohibitions on holding, managing, possessing or otherwise handling investor funds or securities.) 	<ul style="list-style-type: none"> • Under this approach, we anticipate that portals will be required to comply with existing requirements applicable to EMDs except for: <ul style="list-style-type: none"> ○ “client-specific” know-your-client and suitability requirements, and ○ certain other requirements applicable to EMDs as set out in the rule. <p>(The term “client-specific suitability” refers to the obligation to determine that an investment is suitable for a particular client in light of the particular client’s investment needs and objectives.)</p> <ul style="list-style-type: none"> • We think net capital and insurance requirements are necessary to maintain the solvency of a portal (i.e., to ensure the portal has sufficient resources to meet its obligations).

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	<ul style="list-style-type: none"> • To the extent a portal, its officers and directors hold, handle or deal with investor funds or securities, additional insurance requirements will be applicable. • Similar to other registrants, the portal will be required to act honestly, fairly and in good faith. <p><u>Confirmation of transaction</u></p> <ul style="list-style-type: none"> • The proposed rules will require portals to comply with general registrant requirements analogous to those imposed on EMDs. <p><u>Completion of offerings, cancellations, reconfirmations</u></p> <ul style="list-style-type: none"> • Where a material change in the offering occurs, the portal must notify committed investors of the change and require reconfirmation of their commitment within five business days, after which the investment must be cancelled and money returned. • Portals must notify committed investors within five business days of a cancelled offering and must take appropriate steps so that investor money is returned. <p><u>Notice of investment commitment</u></p> <ul style="list-style-type: none"> • Upon receipt of an investment commitment, a portal will be required to deliver to the investor an electronic notification containing certain prescribed information. 	<p>This is a key regulatory tool in minimising harm to investors if a portal ceases operations. Requiring insurance will help insure against the loss of investor funds that might occur if, for example, a funding portal were to violate the prohibition on holding, managing, possessing or otherwise handling investor funds or securities.</p> <ul style="list-style-type: none"> • We have sought specific comment on whether the insurance amount is appropriate. • Portals are expected to play a gatekeeper role in attempting to ensure that issuers comply with the new crowdfunding exemption and their ongoing obligations. A portal is also free to impose upon issuers conducting offerings through them such requirements as the portal considers desirable to protect the interests of investors. A portal may develop standard form documents for that purpose. • Commenters on the Consultation Paper generally supported the view that portals should play some form of gatekeeper role.

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	<p><u>Other</u></p> <ul style="list-style-type: none"> Changes in control of the portal will require regulatory approval. 	
5. Portal due diligence		
<ul style="list-style-type: none"> What due diligence should the portal conduct on issuers and their directors and key management? 	<ul style="list-style-type: none"> Background checks on issuers, directors, executive officers, promoters and control persons will be performed by the portal to verify the qualifications, reputation and track record of the parties involved in the key aspects of the offering. The checks will include identifying criminal and regulatory issues. The following checks will be conducted by the portal either directly or through a third party. <ul style="list-style-type: none"> <u>On issuers:</u> <ul style="list-style-type: none"> The existence of the entity and its business registration (incorporation documents would be delivered to the portal), securities enforcement history checks, bankruptcy check, and court record check, where available. <u>On directors, executive officers, control persons and promoters of the issuer:</u> <ul style="list-style-type: none"> A document similar to a Personal Information Form (PIF) will be completed by each of these individuals and sent to the portal. The portal will be required to perform the following checks: <ul style="list-style-type: none"> (i) criminal record, (ii) securities enforcement, 	<ul style="list-style-type: none"> Requiring a document similar to a PIF to be filed with the regulator is intended to (i) act as a deterrent against false statements (since it is an offence to make a false statement in a required filing) and to (ii) ensure that regulatory authorities have recourse against the person making a false statement in a PIF. We have sought specific comment as to whether an international check should be required. Commenters on the Consultation Paper generally supported some form of due diligence being conducted by portals, including background and regulatory/criminal checks, to reduce the risk of fraud. Some commenters were of the view that the portal should play a role in ensuring issuers' compliance with regulatory requirements, including compliance with disclosure requirements.

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	<ul style="list-style-type: none"> (iii) bankruptcy, and (iv) court records, where available. <ul style="list-style-type: none"> • A document similar to the PIF required in connection with a prospectus offering would be required to be delivered by the issuer to the portal and filed with the regulator. 	
<ul style="list-style-type: none"> • What due diligence should the portal conduct on the issuer’s business (e.g., steps to assess the viability of an issuer’s business plan)? 	<ul style="list-style-type: none"> • A portal must understand the general structure, features and risks of securities presented on their platform. • The portal will review the information presented by the issuer on the portal’s website to form a reasonable belief that the information adequately sets out the: <ul style="list-style-type: none"> ○ general features and structure of the security, ○ issuer-specific risks, ○ parties involved and any inherent conflicts of interest, and ○ intended use of funds. • The portal will not be liable for the accuracy or completeness of the issuer information. • No portal may include on its website any issuer information or communication that appears to be false, deceptive, misleading or contains a misrepresentation and must terminate any offering and report immediately to the principal regulator if fraud is discovered during the distribution period. • The portal must take reasonable steps to 	

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	<p>confirm that the minimum offering is achieved before funds are transferred to the issuer.</p> <ul style="list-style-type: none"> • Business plans must be prepared by the issuer’s management. Portals will not be required to assess the commercial viability of the business plan. 	
6. Fees and conflicts of interest		
<ul style="list-style-type: none"> • What are fee disclosure and conflict of interest requirements? 	<ul style="list-style-type: none"> • Portals must disclose all compensation and fees paid by issuers to the portal. • Portals must identify and appropriately deal with conflicts of interest that may arise in the activities of the portal. 	<ul style="list-style-type: none"> • Several commenters on the Consultation Paper were of the view that portals should disclose how they are paid.
7. Advertising limits		
<ul style="list-style-type: none"> • Should restrictions on portal advertising be imposed? 	<ul style="list-style-type: none"> • A portal may advertise its existence, the fact that crowdfunding offerings can be made through the portal and the fact that information about such offerings is posted on its website. 	
8. Investor education and screening		
<ul style="list-style-type: none"> • Should the portal conduct any type of investor education or other form of investor screening? 	<ul style="list-style-type: none"> • A portal must take reasonable steps to ensure that investors understand the risks of a crowdfunding investment. • Such steps could require investors to: <ul style="list-style-type: none"> ○ correctly answer questions in an interactive questionnaire conducted at the time of the account opening that demonstrates that the investor understands the level of risk 	

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	<p>generally applicable to investments in start-ups, emerging businesses, and small issuers and the risk of illiquidity, and</p> <ul style="list-style-type: none"> ○ correctly answer questions in an interactive questionnaire conducted annually thereafter. <ul style="list-style-type: none"> ● An investor will be required to positively affirm that the investor understands that the investor is making a high risk investment and is risking the loss of their entire investment. ● Portals must obtain a written certification from investors that they comply with the annual investment limit. ● Further, cumulative investments made by the same investor on the portal's platform must be monitored by the portal to ensure the annual investment limit is not exceeded. 	

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9. Other services		
<ul style="list-style-type: none"> Should the portal offer additional services to issuers and investors, particularly services that may enhance investor protection? 	<ul style="list-style-type: none"> Services targeted towards assisting issuers to meet disclosure and record-keeping obligations will be permitted, but would not be a condition of portal registration. If the portal offers a discussion board or other means of communication between investors and/or an issuer and its investors (for example, via chat rooms or a blog), it must ensure that all comments made within such forum can be traced back to their authors. 	<ul style="list-style-type: none"> We are not proposing to require portals to provide online communication between issuers and investors. We will leave it to portals to determine what forms of communication are appropriately facilitated.
10. Portal reporting		
<ul style="list-style-type: none"> What forms of reporting is required of portals? 	<ul style="list-style-type: none"> A portal will provide quarterly (within 30 days of the end of each quarter of its financial year) to the regulator a report on: <ul style="list-style-type: none"> the amounts raised through offerings on the portal that were successfully completed within the quarter based on information received from issuers, on a per offering basis, including the name of the issuer, details on the type and amount of the offering, the industry of the issuer and the number of investors participating in each such offering (issuers have the obligation to file this information, but the obligation could be delegated to the portal), the names and types of issuers given access to the portal and the types of offerings posted on its website, the names and types of issuers denied access to the portal at the time of initial 	

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	<p>application and the reasons for denial of access,</p> <ul style="list-style-type: none"> ○ the names and types of issuers granted access to the portal at the time of initial application that were subsequently removed from the portal and the reasons for removal, ○ the names of issuers who have not complied with ongoing disclosure / reporting obligations to investors, and ○ such other information as the regulator may reasonably request. <ul style="list-style-type: none"> ● The regulator may also request other information or information on a more frequent basis (e.g., PIFs). 	
11. IIROC execution-only (OrderX) platforms		
<ul style="list-style-type: none"> ● How should portals fit in with the discount brokerage model? 	<ul style="list-style-type: none"> ● There will be no dual registration of portals. ● Registrants, including execution-only discount brokerage firms, will not be permitted to use a portal to offer securities on a suitability-exempt basis under the proposed new crowdfunding exemption. 	
12. EMDs operating portals		
<ul style="list-style-type: none"> ● What conditions should be imposed on EMDs to engage in crowdfunding initiatives? 	<ul style="list-style-type: none"> ● EMDs and other registrant categories will not be permitted to distribute securities in reliance on the proposed new crowdfunding prospectus exemption. 	<ul style="list-style-type: none"> ● EMDs and investment dealers may establish and operate internet portals to facilitate the distribution of securities in connection with other prospectus exemptions, including the accredited investor exemption and the proposed new “offering memorandum”

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		exemption, provided they comply with the ordinary requirements applicable to EMDs and investment dealers, respectively, including know-your-client and suitability obligations.
13. Secondary trading		
<ul style="list-style-type: none"> Should portals be permitted to get involved with secondary market trading? If so, on what conditions? 	<ul style="list-style-type: none"> Portals are not permitted to facilitate trading in any securities issued under the exemption, including any secondary market trading. Securities sold in reliance on the crowdfunding prospectus exemption will be subject to ordinary resale restrictions. Generally, this will result in a hold period of four months after the date the issuer becomes a reporting issuer. During the hold period, the security holder may resell securities in accordance with other prospectus exemptions (e.g., to an accredited investor). The investor education materials will make it clear to investors that there are significant resale restrictions and the securities cannot be resold through the portal. 	