

March 8, 2013

**Mr. John Stevenson, Secretary**  
Ontario Securities Commission  
20 Queen Street West  
19<sup>th</sup> Floor, Box 55  
Toronto, Ontario M5H 3S8

Dear Mr. Stevenson,

I welcome this opportunity to publicly submit to the Ontario Securities Commission the following comments regarding the emerging corporate financing mechanism termed Crowdfunding. While some of these remarks are specifically directed to Canadian decisionmaking and transnational issues, most are equally relevant to Crowdfunding in the United States or an other country. An earlier letter that I submitted to the American Securities and Exchange Commission is publicly available on the internet at <http://www.sec.gov/comments/jobs-title-iii/jobs-title-iii.shtml> (letter of Nov. 30 2012) and is incorporated here by reference, as the present remarks aim to enlarge upon these earlier regulation-directed comments, not substantially change them.

By way of introduction, I am personally an accredited American Angel investor and professionally a venture fund manager. In both roles I have been active in the American Angel Capital Association (ACA) and its Public Policy Committee since their foundations, and also in the Canadian Angel scene both nationally (through NACO) and provincially. I travel and invest both within and outside of North America. Concerning Crowdfunding, I have been and remain an ardent and vocal supporter even before passage of the American JOBS act, whose Title III established the legal framework for this practice within the United States. I was a founding board member of the American Crowdfund Intermediary Regulatory Advocates (CFIRA, which focuses on regulatory issues and advocacy) and the Crowdfunding Professional Association (CFPA, established to be an industry-wide comprehensive trade group.) I also founded Crowdfunding Investment (CFI) Angels as a purely investor focused and directed educational and cooperative organization comparable to traditional Angel groups, not encumbered by the unavoidable and clear conflicts-of-interest inherent in industry service providers' prescriptions in and for this field.

In my recent telephone consultation with several members of your staff, I started b explaining the reasons for my original and continuing support for Crowdfunding. First and foremost, this mechanism significantly reduces the undemocratic and paternalistic former proscription of not-already-wealthy individuals from participating in the uniquely attractive financial opportunities of the early-stage private equity (or debt) asset class. Second, some (even if only a minority of) equity Crowdfunding investors and entrepreneurs will benefit from this financing option. The reasons why only a minority of (equity) Crowdfunding investors and entrepreneurs will ultimately individually benefit are discussed below, and can be favorably mitigated although not eliminated. Debt Crowdfunding is far less problematical, as its expectations for both entrepreneurs and investors are clearer and more realistically achievable.

Concerning potential equity Crowdfunding investors, it is generally recognized, and will be importantly featured in all required educational materials and programs, that most new businesses do not ultimately succeed. Even when prepared with the greatest diligence,

competition and subsequent events beyond an entrepreneur's control can and often do derail the best-laid plans. Sustainably successful Angel and Venture investors understand and control these realities by creating and maintaining a portfolio of investments, importantly including participating in further rounds of support for prospering as well as troubled but rescueable companies, and in this way make the overall endeavor highly profitable. Unfortunately, statistics as well as personal knowledge show that most individual Angels do not have the insights, resources and/or discipline to operate in this manner, and experience net overall negative returns from their investing activities. Member dropout and the imperative for constantly recruiting new members are ongoing realities for most established Angel groups. Given these facts, the generally more limited financial, experiential, time, etc., resources available, as well as additional well-meant but in practice counterproductive regulatory limitations on equity Crowdfunding, can it be reasonably maintained that the average overall financial result for equity Crowdfunding investors will be significantly better (i.e. positive) than that of their wealthier Angel investor colleagues? I think not, most emphatically.

We are therefore left with a conundrum. The Crowdfunding industry (particularly the service providers who will benefit financially from each and every transaction, whether ultimately successful or not for the entrepreneurs and investors) and its political boosters loudly proclaim a utopian new age in which average citizens can obtain the heretofore off-limits returns of early stage equity investing. Simultaneously, almost everyone acknowledges that most investors who attempt to do so will suffer net losses instead of the promised gains. A common response from industry advocates is that Crowdfunding investors do or will understand these truths, but will participate anyway out of altruistic motivation for the good of their fellow citizens. In this case however, Title III of the JOBS Act and its Canadian analogue are not necessary, as presale and philanthropic Crowdfunding channels such as Kickstarter have been available for years. The industry-wide inducement of false hopes and expectations of financial returns from JOBS Act-enabled equity Crowdfunding, coupled with the near universally admitted likelihood of just the opposite practical results and thereby disappointed expectations, comes very close to partaking of systemic and constructive fraud (even if not conducted by an identifiable individual conveying an untruth leading to his or her immediate advantage in a specific transaction.) At a minimum, the terms "bubble" and societal "scam" seem appropriate, and are especially regrettable given the more limited but potentially positive results that might be derived from equity Crowdfunding. Are the hyperbolic but misleading pronouncements and promotions of an entire industry actionable or regulatable? The important freedoms to express one's opinion, and for industry to serve individuals' decision-making no matter how generally unwise, would say not, but the ingredients and results remain quite similar to those of actual fraud.

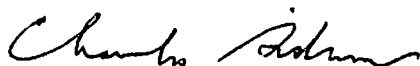
As to the entrepreneurs who may seek support for their ventures using equity Crowdfunding, are they too being plied with false expectations to their eventual detriment and disappointment? Most small businesses, unless of the exceptional high growth variety, are only questionably appropriate for equity co-ownership. How many entrepreneurs are ready for an essentially long-term marriage to their equity investors, with required and open sharing of all organizational information, governance, planning, etc.? How many realize that they will have to part with, forever, a portion of their (often limited) bottom line profits, negotiate whatever personal salaries come out above the bottom line, agree to an exit perhaps earlier than preferred for the sake of investors' profits, etc.? Again, debt Crowdfunding may be a clearer and more long-term palatable option for most small entrepreneurs.

In conclusion, what specific steps might regulators consider in attempts to maximize the benefits and minimize the harmful outcomes of Crowdfunding? In addition to a number of still unresolved regulatory issues addressed in my previous and above-cited letter to the SEC, the following three suggestions come to mind:

1. Consider whether any regulatory mechanism(s) exists through which to control, inhibit or counteract over-exuberant pronouncements that create false expectations of a new age of open access and likelihood of net positive returns from Crowdfunding investing. Besides widespread individual disappointment, the resulting bubble could shatter and prematurely abort this potentially important mechanism in the startup business financing toolkit.
2. The current American JOBS Act specifically precludes Crowdfunding investments into investment companies. This prohibition should be removed entirely, and not inserted into Canadian regulations, since for most potential Crowdfunding investors, pooling and professional management of their limited participation funds are likely to lead to much greater financial returns. (I note and acknowledge the personal perspective here.) For the minority of Crowdfunding investors with time, taste, knowledge and discipline to go it alone (i.e. invest their own funds in deals of their own choice), that option should and will remain available, and will be facilitated by voluntary participation in an organized group of co-investors such as CFI Angels (for non-accredited Crowdfunding investors, analogous to the organized Angel groups of ACA, NACO, etc.)
3. The American JOBS Act unwisely precludes cross-border investment participation; Canada should not follow suit. As an American I can invest in a small Australian company, but an Australian cannot participate in an American Crowdfunding opportunity. Does Canada wish to isolate its entrepreneurs from foreign (including American) capital? By allowing more open access, might Canada not serve itself well in addition to providing a positive model for future evolution of the American JOBS Act?

In closing, please bear in mind that this letter, as alarmed as it may seem, comes from an original and still firm supporter of Crowdfunding, one who believes that doing this right is better than doing it quickly or wrong. I appreciate the chance for input, and remain at your disposal.

Sincerely,



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Founding Board Member, Crowdfund Intermediary Regulatory Advocates (CFIRA) and  
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