

**VIA EMAIL**

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**Re: OSC Notice 11-780 Statement of Priorities – Request for Comment Regarding Statement of Priorities (the “SofP”) for Financial Year to End March 31, 2019**

Dear Sirs/Mesdames:

The NCFA thanks the OSC for the opportunity to comment on its draft 2018-9 Statement of Priorities (“SofP”).

The NCFA was established in 2012. Its members are the leading-edge firms and portals dedicated to offering Canadians alternatives to the established financial industry players and supporting innovation and competition in fintech. These alternatives range from debt and equity crowdfunding platforms to companies in the blockchain and cryptocurrency spaces.

**Summary**

We are concerned that the OSC’s laudable commitment to investor protection (“Investor protection is always a top priority for the OSC”) has come to overwhelm the organization’s role, and effectiveness, in fostering fair and efficient capital markets and confidence in capital markets, at least with respect to financial services models and other innovations that are emerging to meet investor and market needs.

As a result, and despite some successes to-date, Ontario is not at the forefront of financial sector innovation. Other jurisdictions, from the United Kingdom to Singapore, have taken a risk-based approach and have focussed equally on the objectives of consumer protection and fair and efficient capital markets. They are now leading both on financial innovation and regulatory innovation, with impressive economic gains to show for it. Sadly, that is not the case in Ontario.

## **Detail**

In its Strategic Outlook 2015 - 2017, the OSC states that “Capital raising will be transformed in Ontario through the expansion of the ‘exempt’ market. The OSC will improve access to capital by introducing a suite of changes to the securities regulatory framework that will offer greater opportunity for companies to raise capital without a prospectus and for investors to make investments in those companies (for example, through offering memorandum and crowdfunding exemptions). The OSC will support the transformation of the exempt market in several ways including, for example, by facilitating the registration of crowdfunding portals and the filing of offering memoranda and reports of exempt distributions by issuers who have raised capital in reliance on those exemptions.

“Through its ongoing analysis of exempt market data and supervision of the conduct of dealers, the OSC will assess whether the changes introduced are having the desired impact of giving businesses more options through which to raise capital and giving investors for whom they might be suitable greater access to more diverse investment opportunities.”

Reading between the lines, if this strategic priority was intended to mitigate the threat of overly burdensome regulation which would threaten “fair and efficient capital markets and confidence in capital markets” then the NCFAs strongly agrees with this priority. The threat is a serious one.

However, as the NCFAs has noted publicly, so far as we are aware, the OSC initiatives within this priority have largely fallen short or failed compared with other jurisdictions and Ontario continues to fall further behind more progressive economies. (We were unable to locate the OSC’s assessment of “whether the changes introduced are having the desired impact of giving businesses more options through which to raise capital and giving investors for whom they might be suitable greater access to more diverse investment opportunities”.)

## **Suggestions**

The NCFAs has argued strongly that overly prescriptive and non-harmonized regulation of start-ups, crowdfunding, and fintech is stifling innovation and sending our entrepreneurs to the US and elsewhere. It seems clear to us that poor regulation of this sector remains a key risk to the OSC’s mandate of fostering fair and efficient capital markets and confidence in capital markets and so requires much stronger action (as we have already advocated in submissions to the OSC).

In the NCFAs’s view, the OSC should be urgently prioritizing revamping the regulatory regime together with other CSA regulators in line with (and cooperating with) progressive international regulators. It is also crucial that more and better data be collected, analyzed, and published so that we can see exactly where we are compared to other jurisdictions and year on year.

The collection of better data and analysis would allow the OSC to set performance measures that would help to show, over time, that more start-ups are enabled and supported to the next stage (or not), that capital raising has increased (or reduced) among this cohort, that more (or fewer) entities are being driven out of the jurisdiction, that unjustified compliance costs have been reduced, and so on, compared to other jurisdictions. Simply measuring (how?) perceptions of Ontario as an innovative fintech hub is not enough. And we already know that sandboxes alone will not fix Ontario’s problems in this sector.

Metrics for measuring regulatory and economic outcomes (or at least the development of metrics) should be incorporated into the SofP. These could include:

- Capital flowing into fintechs
- Number of listed debt and equity portals and capital raised
- Company financings via these new mechanisms and successes/failures
- Loan volumes via these alternative channels, especially to small businesses
- Time spent to comply with regulatory exemptions
- Cost(\$) of compliance.

Simply continuing existing work without a proper analysis of what is working and what is not, with proposed next steps to fix the problem, is not good enough.

The NCFCA firmly believes that effective strategic planning, a risk-based approach, fact-based decision-making and a defined measurement program (with accountability) is the only workable path towards cost-effective regulatory policy that achieves a balance between multiple objectives. We would be pleased to work with the OSC in the development of robust data collection and metrics for 2018-9.

Thank you for your time.

Best Regards,



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Links:

[http://www.osc.gov.on.ca/en/Publications\\_pub\\_20150618\\_osc-2015-2017-strategic-outlook.htm](http://www.osc.gov.on.ca/en/Publications_pub_20150618_osc-2015-2017-strategic-outlook.htm)

<https://www.fca.org.uk/publications/corporate-documents/our-business-plan-2018-19>