CANADIAN FORUM FOR FINANCIAL MARKETS
FORUM CANADIEN DES MARCHÉS FINANCIER
www.CFFiM-FCMFi.ca

January 5, 2026

Submitted via E-Mail: comments@osc.gov.on.ca

The Secretary
Ontario Securities Commission
20 Queen Street West 22nd Floor
Toronto, Ontario M5H 3S8

Dear Sirs/Mesdames:

**RE: PROPOSED MULTILATERAL INSTRUMENT 45-111, SELF-CERTIFIED INVESTORS PROSPECTUS EXEMPTION AND RELATED AMENDMENTS ("SELF-CERTIFIED INVESTOR EXEMPTION")**

The Canadian Forum for Financial Markets / Forum Canadien des Marchés Financiers (the "**CFFiM**") is dedicated to moving forward proposals to demonstrably grow healthy, competitive financial markets in Canada for the greater good. We are a mission-first, values-driven, and reform-minded organization committed to Canada's broader economic interests.

The CFFiM supports the Participating Jurisdictions' efforts to introduce a harmonized Self-Certified Investor Exemption that expands on the exemptions that are currently available under provincial orders in Alberta, Saskatchewan, Manitoba, and Ontario.

## SUMMARY OF RECOMMENDATIONS

The CFFiM offers the following recommendations in support of the proposed Self-Certified Investor Exemption:

(1) The proposed Information Form and Acknowledgement should be simplified.

(2) The education requirements should be both expanded and simplified.

(3) The expectation that the person or company distributing securities under the proposed exemption must not know or be "reasonably expected to know" that the investor's confirmation or acknowledgement are "false or misleading" should be removed.

(4) The proposed $50,000 investment cap should be removed.

(5) Subject to the above amendments, the Self-Certified Investor Exemption should be adopted by all members of the Canadian Securities Administrators ("**CSA**") and have effect across Canada. A harmonized approach is encouraged in order to improve the health and competitiveness of Canada's capital markets.

## A. BENEFITS OF THE SELF-CERTIFIED INVESTOR EXEMPTION

As it stands, issuers making use of a prospectus exemption are precluded from distributing securities to investors that do not fall within a prescribed category of investor. Practically speaking, this limits the pool of eligible investors for private issuers to "friends and family" of the issuer and wealthier Canadians who qualify as accredited investors. Although these limitations were designed to maintain investor protection, they have the adverse effect of excluding other Canadians from private equity markets including knowledgeable and experienced investors. The Proposed Self-Certified Investor exemption would help to address this disparity by creating a more inclusive private equity market.

In addition, the Self-Certified Investor Exemption provides issuers with the opportunity to access capital from a larger and more diversified pool of investors. As a result of the limited exemptions that are currently available, Canadian start-ups and other private companies are forced to rely on capital from a relatively small number of private investors who qualify as accredited investors. Increasingly, the demand for private capital in Canada is outstripping available sources, leading many companies to seek private equity from investors in the United States.[1] The Self-Certified Investor Exemption could help alleviate this problem by providing issuers with access to additional capital from Canadian investors including through special purpose vehicles. This, in turn, could stimulate early-stage growth for issuers in Canada.

## B. ADDRESSING CANADA'S COMPETITIVENESS

The proposed Self-Certified Investor Exemption properly and strategically contrasts with the narrower exemptions found in the U.S. and U.K. Canada's capital markets are smaller than the U.S. and U.K., with fewer institutional investors relative to GDP.[2] The Self-Certified Investor Exemption would allow issuers to reach a wider array of domestic investors considering Canada's relatively small institutional base.

### i) The United States

The SEC has limited the "self-certified" exemption to: "Any natural person holding in good standing one or more professional certifications or designations or credentials from an accredited educational institution that the Commission has designated as qualifying an individual for accredited investor status."[3] In practice, this includes investment professionals in good standing with a Series 7 (General Securities Representative License), 65 (Investment Adviser Representative License), or 82 licence (Private Securities Offerings Representative License), directors, executive officers, and general partners of the company selling the securities, and knowledgeable employees of an investment fund.[4]

The scope of this exemption has been criticized as being too restrictive and exclusionary, locking out most Americans from private market investments, entrenching wealth inequality, and limiting capital formation for smaller issuers.[5] For example, former SEC Commissioner Hester Peirce expressed concern about excluding capable investors who lack specific listed credentials.[6]

---

[1] Ari Pandes and Daniel Wilson, "To fix Canada, we must fix our troubled market", *Globe and Mail* (Dec 1, 2025).

[2] The U.S. accounts for a dominant share of global market capitalization, with Canada's share significantly smaller and broadly similar to or lower than the U.K. The U.S. equity market alone accounts for roughly half of worldwide listed equity value, whereas Canada represents around 2.7 % and the UK around 3.5 %; SIFMA, *2025 Capital Markets Fact Book* (2025), at p. 7.

[3] SEC, *Commodity and Securities Exchange Act, Regulation D – Rules Governing the Limited Offer and Sale of Securities*, § 230.501.

[4] SEC, Accredited Investors

[5] Jennifer J. Schulp, Cato Institute, testimony before the U.S. House Financial Services Subcommittee on Capital Markets (2023); Cato Institute publication: Removing Barriers to Small Business Capital Formation and Expanding Investor Opportunities.

[6] SEC Commissioner Hester M. Peirce, Statement on Amending the "Accredited Investor" Definition (August 26, 2020).

### ii) The United Kingdom

In the U.K., the self-certification exemption is limited to individuals who have: (a) worked in a professional capacity in the private equity sector, or in the provision of finance for small and medium enterprises in the last two years; (b) been a director of a company with an annual turnover of at least £1 million in the last two years; (c) made two or more investments in an unlisted company in the last two years; and/or (d) been a member of a network of business angels for more than 6 months.[7]

This self-certified "sophisticated investor" exemption in is widely considered to be overly restrictive, effectively limiting the pool of eligible investors, in a manner that is unreflective of investor knowledge and too limiting for small-scale capital raising.[8] Concerns have also been raised regarding heavier verification burdens, in addition to the strict criteria, as creating barriers to review and capital raising by reducing engagement by investors and industry participants.[9]

## C. RECOMMENDATIONS

### i) Information Form and Acknowledgement

This proposal contemplates that issuers will be required to provide prospective investors with Form 45-111F3, *Information to Understand before Making an Investment* (the "**Information Form**") prior to investing under the Self-Certified Investor Exemption. In addition, all investors relying on this exemption will be required to execute Form 45-111F2, *Acknowledgement of Risk* (the "**Acknowledgement**").

Although the Information Form and Acknowledgement are intended to protect investors, these disclosures could have the opposite effect, while impacting the utility of the proposed exemption. First, the information contained in the Information Form and the Acknowledgement are similar, but there are differences in the language used on these forms. In addition, the Information Form includes statements that are not found in the Acknowledgement. In particular, the Information Form includes information under "be wary of projections" and "do your own diligence" which is not found in the Acknowledgement. These discrepancies could create confusion for both investors and issuers.

Second, the Information Form and the Acknowledgement contain imprecise statements that could be misinterpreted by investors. Specifically, the Information Form states that, when investing under the Self-Certified Investor Exemption, the investor "will not have key rights […] such as a two-day right to cancel your investment for any reason and a right to sue either to get your money back or for damages if there is a misrepresentation […]". A similar statement is found in the proposed Acknowledgement. Although Self-Certified Investors would not be provided with the same *statutory* protections afforded to investors in prospectus offerings, an investor could have contractual and/or common law rights to rescission and damages.

Finally, the proposed Information Form and Acknowledgement differ substantially from and include information not found in the risk acknowledgment that accredited investors are required to sign.[10] For example, the Information Form ominously states that: "Misleading statements and unfair practices are prohibited, but scams still happen. […] Be alert to high-pressure sales tactics and promises that of "too

[7] FCA, Financial Services and Markets Act 2000 (Financial Promotion) Ordre 2005.
[8] Changes to the Financial Promotion Exemptions
[9] Financial Promotion Exemptions for High Net Worth Individuals and Sophisticated Investors, Consultation Response, HM Treasury, November 2023 (pp. 9-10, 13).
[10] OSC Form 45-106F9, *Form for Individual Accredited Investors*.

good to be true" investment returns". The accredited investor disclosure form does not include any similar statement, which creates the impression that accredited investors do not require the same level of disclosure as Self-Certified Investors or, alternately, that Self-Certified Investors require additional information in order for them to understand an investment. Both of these conclusions are problematic, in that they create a hierarchy of investor competence that is neither accurate nor defensible. In addition, including generic anti-scam language incorrectly implies that exempt products are inherently more prone to fraud than prospectus-qualified products. Prospectus exemptions reduce the form of disclosure, not the prohibition on fraud and misrepresentation. This legal incoherence further risks misleading investors.

The CFFiM makes the following recommendations in light of the above noted concerns:

1. **Information Form:** The Information Form should be removed from this proposal.

2. **Acknowledgement:** The Acknowledgement should be revised to match the acknowledgement signed by accredited investors.

**ii) Qualifying Criteria**

The Self-Certified Investor Exemption is premised on the notion that individuals who qualify for this exemption are capable of understanding the risk associated with an exempt market product. This differs from the Accredited Investor Exemption, which presumes that an investor can bear an investment loss.[11]

Despite this distinction, the proposed Self-Certified Investor Exemption is limited to individuals with specific types of education, accreditation, and/or work experience, which may or may not reflect that individual's ability to assess an investment opportunity and understand the risk. In particular, this exemption is limited to those with degrees and work experience in finance and areas that correspond with the business of an exempt market issuer. In practice, this standard will exclude a wide number of individuals who are also capable of understanding an investment and its risk.

The CFFiM recommends that the Self-Certified Investor Exemption be expanded to include the completion of any post-secondary degree and two years of work experience. This would create an inclusive standard, capturing a broader group of Canadians who are also capable of understanding investments and the related risks. It would also create a clear set of criteria that will ease administrative burden and reduce uncertainty for investments.

**iii) Self-Certification**

Section 3(g) of Proposed Multilateral Instrument 45-111 provides that the Self-Certified Investor Exemption only applies if the "the person or company distributing the security does not know and would not reasonably be expected to know that the statements made by the self-certified investor in the confirmation of qualifying criteria, and the acknowledgement of risks are false or misleading."

This qualification does not apply to the accredited investor exemption and runs contrary to the purpose of self-certification, which is to establish a clear allocation of responsibility:

- the investor certifies that they meet objective criteria and understand the risks; and
- the dealer/issuer relies on that certification as the qualifying fact for the exemption.

[11] National Instrument 45-106, ss. 1.1, 2.3,2.4

Introducing a "does not know and would not reasonably be expected to know" standard implies that the investor's certification may be unreliable, thereby defeating the rationale that underpins this exemption. This qualification creates uncertainty for investors and issuers and could undermine the utility of the Self-Certified Investor Exemption. As such, this requirement should be deleted.

**iv) Aggregate Investment Limit**

The CFFiM appreciates that the proposed cap is intended to protect investors by limiting their exposure to loss. However, the policy rationale for this proposal is not based on an investor's ability to absorb a loss but on the investor's ability to understand the associated risk. If a qualified investor can understand an investment and its risks, that investor should not be precluded from investing above an aggregate limit. This limitation has not been adopted in the U.S. or U.K. and should be removed from the proposal.

Registrants who recommend private equity investment opportunities to their clients though the Self-Certified Investor Exemption would be subject to "know-your-client", "know-your-product" obligations and suitability determinations prior to making any such recommendation,[12] further rendering an aggregate limit unnecessary.

**iv) National Harmonization**

The CFFiM appreciates the Participating Jurisdictions' efforts to create a harmonized Self-Certified Investor Exemption. However, as it stands, this exemption will be limited to investors in Participating Jurisdictions, which could undermine the attractiveness of the exemption and its impacts.

There is no discernible reason for investors to be treated differently and to be provided with narrower investment options by virtue of residing in a province that is not participating in this consultation. This piecemeal approach to regulation is ineffective, adds administration, and undercuts the Participating Jurisdictions' worthy goals in pursing this initiative. The CFFiM recommends that *all* CSA members participate in this initiative as a matter of prompting regulatory harmonization.

Respectfully submitted,

***Canadian Forum for Financial Markets***

100 Wellington Street West | Suite 1910
Po Box 173| Toronto, On | M5k1h6
www.CFFiM-FCMFi.Ca

***cc.***

[12] National Instrument 31-103, *Registration Requirements, Exemptions, and Ongoing Registration Obligations* at ss. 13.2, 13.2.1, and 13.3.

Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Financial and Consumer Services Commission of New Brunswick
Manitoba Securities Commission
Nova Scotia Securities Commission
Financial and Consumer Services Division, Department of Justice and Public Safety, Prince Edward Island
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Superintendent of Securities, Nunavut
Office of the Yukon Superintendent of Securities