**Annex A**

**Summary of Comments and Responses**

| | **Commenter** |
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| 1. | Canadian Advocacy Council of CFA Societies Canada |
| 2. | Canadian Association of Alternative Strategies & Assets |
| 3. | Equiton Partners Inc. |
| 4. | FrontFundr Financial Services Inc. |
| 5. | Investment Industry Association of Canada |
| 6. | Norton Rose Fulbright Canada LLP |
| 7. | Larry Wilkins |
| 8. | Private Capital Markets Association of Canada |
| 9. | Skyline Group of Companies |
| 10. | Steve Cohen Law Professional Corporation |
| 11. | Three Point Capital Corp. |
| 12. | Veronica Armstrong Law Corporation |
| 13. | Wanda Morris |

| **Number** | **Comment** | **Response** |
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| *General comments that are supportive of the 2020 Proposed Amendments* | | |
| 1. | One commenter welcomes the 2020 Proposed Amendments as they relate to Form 45-106F2. The commenter supports the efforts of the CSA to clarify the OM Standard of Disclosure. Similar to the changes in respect of CIVs the commenter views many of these changes as aligning with current best practices. | We thank the commenter for the support and input. |
| 2. | One commenter believes the following. First, providing clear and targeted disclosure requirements for Real Estate Issuers and CIVs is in the public interest. Second, instituting appropriately tailored disclosure requirements for these issuers will benefit investors, registrants and issuers, since doing so will provide greater transparency and increase confidence in the private markets. | We thank the commenter for the support and input. |

| Number | Comment | Response |
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| 3. | One commenter often finds that the fees, organizational disclosures, and investment risks and attributes set out in an OM to be complicated, buried within other legal disclosures, and difficult for readers to understand in order to adequately evaluate a given investment opportunity. The commenter believes there are several positive elements in the 2020 Proposed Amendments, and supports the approach where disclosure is standardized across issuers and supplemented with industry specific information in schedules to the greatest extent possible. | We thank the commenter for the support and input. |
| 4. | One commenter believes the 2020 Proposed Amendments will significantly improve the quality of information investors receive in OMs, and help them make better informed investment decisions.<br><br>The commenter also believes that the 2020 Proposed Amendments will make it easier for issuers and their professional advisers to provide the level of disclosure in an OM that CSA members expect from them.<br><br>The commenter is of the view that the 2020 Proposed Amendments should ultimately reduce costs to issuers, as they will be able to avoid the costs associated with compliance action by regulators. | We thank the commenter for the support and input. |
| 5. | One commenter supports the CSA's efforts to improve disclosure for investors and provide issuers with clear disclosure requirements. | We thank the commenter for the support and input. |

| Number | Comment | Response |
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| 6. | One commenter supports the purpose of the 2020 Proposed Amendments to create clear and relevant disclosure for issuers that were not originally envisioned to be users of the OM Exemption but who have become significant users of the exemption. Given the fact that the OM does not currently contain disclosure tailored to these types of issuers who are raising significant funds, it is appropriate to amend the disclosure requirements to ensure that purchasers are receiving sufficient information to make an informed investment decision. | We thank the commenter for the support and input. |
| 7. | One commenter is of the view that, although the General Amendments add to the disclosure burden of using the OM Exemption, the additional disclosure will generally be useful to investors. | We thank the commenter for the support and input. |
| *Various comments related to burden associated with the 2020 Proposed Amendments* | | |
| 8. | One commenter is concerned that the cost of complying with the 2020 Proposed Amendments outweighs the additional protections afforded to OM investors. | We acknowledge these concerns. We submit that the Amendments have been changed from the 2020 Proposed Amendments in a way that strikes an appropriate balance between concerns about the cost of carrying out a financing under the OM Exemption and investor protection. |

| Number | Comment | Response |
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| 9. | One commenter observed that the OM Exemption is already a proportionately small part of the prospectus-exempt market. The commenter is of the view that issuers that have the ability to raise capital under other prospectus exemptions, for example the accredited investor exemption found in section 2.3 of NI 45-106, might reduce the amount of capital they raise under the OM Exemption, which could have certain unintended effects, including:<br>• Retail investors could lose investment opportunities.<br>• The issuers choosing to favour other prospectus exemptions may be larger and more mature issuers, increasing the risk profile of the remaining issuers using the OM Exemption.<br>• Not using the OM Exemption would mean that a Form 45-106F2 compliant offering memorandum would not need to be prepared, which could inadvertently reduce the disclosure provided to purchasers under other prospectus exemptions, such as the AI Exemption, because these purchasers are often provided with an OM when the issuer is also raising capital under the OM Exemption. | We acknowledge these concerns. We submit that the Amendments have been changed from the 2020 Proposed Amendments in a way that strikes an appropriate balance between concerns about the cost of carrying out a financing under the OM Exemption and investor protection. |
| 10. | One commenter is concerned that the additional disclosure included in the 2020 Proposed Amendments could make investors decide not to read the OM, and create an over-reliance on the dealer. | We acknowledge these concerns. We submit that the Amendments have been changed from the 2020 Proposed Amendments in a way that strikes an appropriate balance between concerns about the length of an OM and investor protection. |

| Number | Comment | Response |
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| 11. | One commenter made a number of comments relating to burden. The comments included the following concerns:<br>• Certain of the 2020 Proposed Amendments fail to strike the right balance between cost and investor protection.<br>• Some issuers will stop using the OM Exemption, resulting in fewer opportunities for retail investors.<br>• The OM Exemption is used relatively little, compared to other prospectus exemptions, and this is likely because it is very expensive. The 2020 Proposed Amendments would increase this cost. | We acknowledge these concerns. We submit that the Amendments have been changed from the 2020 Proposed Amendments in a way that strikes an appropriate balance between concerns about the cost of carrying out a financing under the OM Exemption and investor protection. |
| 12. | One commenter is concerned that the additional regulatory burden associated with some of the 2020 Proposed Amendments outweigh the potential benefits.<br><br>The commenter notes that the cost of preparing an offering memorandum, combined with the cost of commissions, is already high and that the new requirements may make it even more difficult and cost prohibitive for early stage and small businesses to raise capital. | We acknowledge these concerns. We submit that the Amendments have been changed from the 2020 Proposed Amendments in a way that strikes an appropriate balance between concerns about the cost of carrying out a financing under the OM Exemption and investor protection. |

| Number | Comment | Response |
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| 13. | One commenter is of the view that the new disclosure requirements approach a disclosure standard that is similar to the "full, plain and true disclosure of all material facts" standard applicable to a prospectus. The commenter is concerned that these new requirements will lead to a decrease in the use of the OM Exemption, and result in inequities between larger issuers who have the resources to comply with the requirements and smaller issuers who do not.<br><br>Another commenter is concerned that increasing the disclosure in an OM so that it approaches prospectus-level disclosure will increase the cost of the OM. | We acknowledge these concerns. We submit that the Amendments have been changed from the 2020 Proposed Amendments in a way that strikes an appropriate balance between concerns about the cost of carrying out a financing under the OM Exemption and investor protection.<br><br>We are of the view that the OM Standard of Disclosure is not the same as the standard of disclosure for a prospectus. |
| 14. | One commenter asserts the following. The OM Exemption is already the most expensive of the prospectus exemptions generally available to early stage and small businesses. Combined with the investment limits imposed by most jurisdictions, this results in under-utilization of the OM Exemption. The burden associated with the 2020 Proposed Amendments increases the likelihood that some issuers will cease using the OM Exemption altogether. | We acknowledge these concerns. We submit that the Amendments have been changed from the 2020 Proposed Amendments in a way that strikes an appropriate balance between concerns about the cost of carrying out a financing under the OM Exemption and investor protection. |

| *NI 45-106 section 1.1: definition of "collective investment vehicle"* | | |
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| 15. | One commenter observed that the 2020 Proposed Amendments define CIV as an issuer whose primary purpose is to invest money provided by its security holders in a portfolio of securities. The commenter noted that this definition is broad and would capture subsidiaries and affiliates of the issuer. For example, an issuer that acquires 100% of a number of operating companies would be captured under the definition of CIV. In the commenter's view, such an issuer should disclose its subsidiaries as part of itself, rather than as an external portfolio held by the issuer. In addition, such subsidiaries would be captured in the issuer's financial statements. Therefore, the commenter proposes that the definition of "collective investment vehicle" exclude subsidiaries and affiliates of the issuer.<br><br>The commenter believes that defining net asset value (**NAV**) in the context of CIVs in the same manner as an investment fund under National Instrument 81-106 *Investment Fund Continuous Disclosure* illustrates the point above.<br><br>The commenter notes that issuers that are not investment funds do not generally disclose the value of their subsidiaries using NAV concepts. Rather, information about the performance of subsidiaries is set out in the issuer's financial statements. Assigning a NAV to operating subsidiaries would appear to be an unintended and undesirable result. | We have changed the definition of CIV to exclude the securities of subsidiaries controlled by the issuer.<br><br>Affiliation is defined in NI 45-106 as issuers that are parent or subsidiary to each other, or issuers that are controlled by the same person. Because the concept of subsidiaries of the OM issuer has already been dealt with as noted above, and because being controlled by the same person or company would not in our view cause a problem with the definition of CIV, we have not excluded affiliates from the definition of CIV. |

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| 16. | One commenter believes that the definition is very broad and would capture all types of pooling vehicles, including those that fall within the definition of "investment fund". The commenter notes that the regulators have recognized this, but refer specifically to mortgage, loan, and receivables portfolios. The commenter suggests that if regulators are concerned with these specific types of vehicles, they should limit the definition to those. | The definition of "collective investment vehicle" is intentionally broad. We believe that Schedule 2 is appropriate disclosure for investment funds, in the jurisdictions where they are permitted use the OM Exemption. We have also highlighted issuers that invest in portfolios of loans, mortgages and in certain circumstances, receivables, as being issuers that are CIVs. In addition, it is possible that there could be issuers with portfolios of other investments for which Schedule 2 is appropriate, and for that reason, we kept the definition broad. |
| *NI 45-106 section 1.1: definition of "material change"* | | |
| 17. | One commenter requested guidance as to what constitutes a material change for an issuer distributing securities under the OM Exemption.<br><br>The commenter provided examples of issuers determining that certain events are not material changes. | The term "material change" is defined in local securities acts.<br><br>We have added certain guidance on this topic in paragraph 3.8(3)(b) of the 45-106CP.<br><br>CSA member jurisdictions carry out review and compliance programs with respect to OMs, which can, among other things, assess the appropriateness of issuers' determinations regarding material changes. |
| *NI 45-106 section 1.1: definition of "material contract"* | | |
| 18. | One commenter is concerned that the definition is very broad, particularly as it includes contracts of an issuer's subsidiaries. The commenter asks whether the test meant to be objective, and whether regulators would accept an issuer's view that a contract is not material. | "Material contract" is used in Form 45-106F2, but is not defined. For issuers' ease of use, a definition has been included in the Amendments. It was taken, unchanged, from NI 51-102. We interpret the definition as being an objective test. |
| *NI 45-106 section 1.1: definition of "real estate activities"* | | |
| 19. | One commenter believes that a definition should be provided for the term "primarily". | We acknowledge the comment. We interpret "primarily" to have its generally understood meaning. |

| 20. | One commenter believes that the exclusions to the definition listed for the province of Québec, namely "(i) an investment contract that includes a real right of ownership in an immovable and a rental management agreement; or (ii) a securities of an issuer that owns an immovable giving the holder a right of exclusive use of a residential unit and a space in such immovable", are ambiguous and open to interpretation. The commenter suggests clarification. | The carve-out with respect to Québec has been finalized to exclude activities relating to the forms of investments subject to *Regulation Respecting Real Estate Prospectus and Registration Exemptions* (Québec). |
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| *NI 45-106 section 1.1: definition of "qualified appraiser"* | | |
| 21. | One commenter questioned if "qualified appraiser" is defined. | The definition of "qualified appraiser" was published as part of amendments that were announced by CSA notice dated August 6, 2020 (the **August 6, 2020 Notice)**. Those amendments are now effective. |
| *NI 45-106 section 1.1: definition of "related party"* | | |
| 22. | One commenter is of the understanding that the definition of "related party" is new, and suggests that it be conformed with the definition of a related party under IAS 24 Related Party Disclosures. | The definition of Related Party is not new. It has been moved from A. 6. of the instructions to Form 45-106F2 to section 1.1 of NI 45-106, for ease of reference. It has undergone minor revisions.<br><br>Substantive changes to the definition are outside the scope of the project. |

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| *Comments on the OM Standard of Disclosure* | | |
| 23. | Regarding NI 45-106 subsection 2.9(13.2) of the 2020 Proposed Amendments, which would require an OM to be amended if there is a material change between when its certificate is signed and when the issuer accepts an agreement to purchase the security, one commenter believes that this requirement should be triggered for a material change as to the issuer, or as to the securities being offered through the OM. | We note that significant changes to the terms of the securities being offered would likely require an amendment to the OM, in view of the OM Standard of Disclosure. |
| 24. | Regarding NI 45-106 subsection 2.9(13.3) of the 2020 Proposed Amendments, which requires that an OM provide a reasonable purchaser with sufficient information to make an informed investment decision, one commenter questioned why this requirement was added. | This is a move of a requirement, rather than a new requirement. This requirement was previously in instruction A. 3. to Form 45-106F2. It has been slightly revised to make it clear that the test is objective. |
| *The appraisal requirement: support* | | |
| 25. | One commenter is generally supportive of the appraisal requirement. | We thank the commenter for the support and input. |
| 26. | One commenter is supportive of an appraisal being required in the scenarios outlined in the 2020 Proposed Amendments. | We thank the commenter for the support and input. |

<table>
<tr><td colspan="3">The appraisal requirement: appraisal must be performed by an appropriately qualified appraiser</td></tr>
<tr><td>27.</td><td>One commenter urges the CSA to ensure that the required appraisal be performed by an appropriately qualified appraiser.<br><br>One commenter recommends that the definition effective March 1, 2021 of “qualified appraiser” be used for these provisions.</td><td>The appraisal must be performed by a “qualified appraiser”. The definitions of “qualified appraiser” and the related term “professional association” were published in the August 6, 2020 Notice. The amendments from that notice are effective now.<br><br>In brief, a qualified appraiser is an individual that regularly performs appraisals for compensation, is a member in good standing of a professional association that meets certain criteria and holds an appropriate designation, certification or license.</td></tr>
<tr><td colspan="3">The appraisal requirement: burden</td></tr>
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| 28. | In one commenter's view, the addition of an appraisal requirement for Real Estate Issuers is a significant burden that is not justified by the benefits for investors. In addition, the commenter believes it could cause Real Estate Issuers to cease relying on the OM Exemption. | The Amendments reflect significant changes to the appraisal requirement to address certain of the concerns raised by commenters.<br><br>Regarding transactions with related parties, we have revised paragraph 2.9(19.5)(a) so that it no longer applies to completed acquisitions from related parties and therefore only applies to proposed acquisitions from related parties. In addition, for greater certainty, we have added that to a reasonable person, the likelihood of the issuer completing the acquisition must be high.<br><br>However, with respect to completed transactions, we note that section 7 of Schedule 1 of Form 45-106F2 requires a history of any transactions for which a Related Party was buyer or seller for each interest in real property held by the issuer.<br><br>We have also added certain guidance related to proposed acquisitions from a Related Party. The guidance includes that such an acquisition could be a material change requiring that the OM be amended. We have also reminded issuers carrying out ongoing distributions under an OM that it is possible to trigger the appraisal requirement as to acquisitions from a Related Party after the OM's certificate is signed. Please see the 45-106CP for the complete guidance.<br><br>We have also made changes to make it clearer that the appraisal requirement |

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| | | applies to each interest in real property (i.e. one or more).<br><br>Regarding paragraph 2.9(19.5)(c), instances where the issuer plans to use a material amount of the proceeds to acquire real property, we have reconsidered this proposal. We recognize the practical problems pointed out by the commenters, and have determined that the larger investor protection concerns are with property acquired from related parties. As a result, we have removed paragraph (c). |
| *The appraisal requirement: inconsistent with reporting issuer disclosure requirements* | | |
| 29. | One commenter questioned why an issuer that distributes securities under the OM Exemption should be subject to more onerous requirements (i.e. the requirement to provide a real property appraisal in certain circumstances) than reporting issuer requirements. The commenter sees this as creating an undue burden, and inconsistency in how issuers are regulated. | We acknowledge the comment. For OM distributions, there have been particular problems with the stated valuations of real property. As a result, we are still of the view that in some circumstances the appraisal requirement is justified in order to protect investors.<br><br>However, in the Amendments, we have significantly scaled back the appraisal requirement to deal with the high level of concern about this proposal. Please see our response to comment 28 for further detail. |

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| *The appraisal requirement has no materiality threshold* | | |
| 30. | One commenter observes that as proposed, an appraisal requirement applies without regard to the size of the issuer making the acquisition and is incongruent with the materiality standards set out in the instructions to Form 45-106F2 with respect to business acquisition disclosure. In the commenter's view, this over-emphasizes acquisitions, when investors should be more focused on the issuer as a whole. | As noted, we have significantly scaled back the appraisal requirement to deal with the high level of concern about this proposal. Please see our response to comment 28 for further detail.<br><br>Also as noted, for OM distributions, there have been particular problems with the stated valuations of real property. As a result, we are still of the view that in some circumstances the appraisal requirement is justified in order to protect investors, irrespective of the materiality of the acquisition. |
| *The appraisal requirement could undervalue an issuer* | | |
| 31. | One commenter asserted that an appraisal that cannot take into account any proposed improvements or developments will always disclose a value that is lower than the value ascribed by management. | We acknowledge the comment.<br><br>While we recognize that the inability to include proposed improvements may have some drawbacks, it is important for investor protection purposes that the appraisal appraise the property in its present condition.<br><br>We also note that an issuer may discuss proposed improvements in its OM. |

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| 32. | One commenter advised that appraisal without regard to developments or improvements could favour Real Estate Issuers that have a "buy and hold" strategy while disfavouring Real Estate Issuers that are developers, by undervaluing developers' investments. The commenter feels that this is inappropriate, as developers that wish to discuss what they believe the value of real property would be after their business plans are complete will need to essentially "disprove" an appraisal that assumes no action is taken, which appraisal is required to be featured with equal or greater prominence. | Please see our response to comment 31. |
| *The appraisal requirement could provide a false sense of security to investors* | | |
| 33. | One commenter is concerned that appraisals obfuscate the fact that an equity investor does not have any direct recourse to the issuer's real estate interests, and will be subordinate to all of the issuer's creditors should the issuer fail. That is, an investment could be lost in its entirety even if the appraisal was accurate. | We acknowledge the comment. In our understanding, investors are generally aware that typically they are not secured creditors as to the issuer's assets. |
| *The appraisal requirement: concerns about confidentiality and competitive advantage* | | |
| 34. | One commenter observes that property sales are often subject to strict confidentiality obligations. However, any appraisal, by necessity, may reference certain information that is the subject of the confidentiality covenants. The commenter is concerned that this may put the issuer in a position where it cannot to rely on the OM Exemption. | We are not aware of anything of a general binding nature specifying that appraisals must be confidential. In our understanding, any confidentiality over an appraisal is at the discretion of the party requesting the appraisal and the appraiser.<br><br>We also note that the appraisal requirements recently imposed in NI 45-106 with respect to syndicated mortgages do not contemplate that the appraisal will be confidential. |

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<tr><td>35.</td><td>One commenter made the following comments about the appraisal requirement and confidentiality:<ul><li>The appraisal requirement would appear to capture property that the issuer intends to purchase, but purchase agreements that are still in negotiation are typically subject to confidentiality agreements.</li><li>Appraisals are provided based on financial information provided by the vendor. The appraisal report typically contains this information or information derived from it, but vendors often provide the information on the condition of confidentiality.</li><li>Appraisal reports often provide that the information from the report can only be disseminated with the consent of the appraiser. The commenter notes that the requirements to deliver and file appraisals would clash with this condition.</li><li>The commenter sees the need for independent appraisals for properties transacted with a Related Party, but suggests that the CSA engage with the Appraisal Institute of Canada regarding the confidentiality issue.</li></ul></td><td>Please refer to our response to comment 34.<br><br>Regarding purchase agreements in negotiation, we acknowledge the comment. We note that in the Amendments we have significantly scaled back the appraisal requirement, but think that appraisals are still necessary for investor protection purposes in those narrowed circumstances. In these cases, issuers would need to obtain the required information, irrespective of the vendor's desire for confidentiality.</td></tr>
<tr><td>36.</td><td>One commenter notes that providing purchasers with an appraisal could put the issuer at a competitive disadvantage by limiting the price in a future sale to the appraised value, and also noted that the appraisal could be seen as proprietary information that should not be provided to investors.</td><td>We submit that greater transparency as to valuation has investor protection benefits, but does not determine a selling price, which is arrived at through negotiation between a purchaser and seller.</td></tr>
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| *The appraisal requirement: timing concerns or clarifications* | | |
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| 37. | One commenter stated that the Proposed Amendments should specify how current the appraisal must be. | Paragraph 2.9(19.6)(d) of the Amendments states that the appraised fair market value of the interest in real property must be as at a date that is within 6 months preceding the date that the appraisal is delivered to the purchaser. |
| 38. | Two commenters are concerned that the 2020 Proposed Amendments require appraisals to be updated due to the passage of time during the offering period. | The Amendments do not contain a general requirement to update appraisals. However, if distributions under an OM are ongoing, because an appraisal must be dated within 6 months preceding the date that the appraisal is delivered to the purchaser, an appraisal previously obtained by an issuer may be required to be updated due to the passage of time.<br><br>As noted, we have significantly scaled back the appraisal requirement to deal with the high level of concern about this proposal. Please see our response to comment 28 for further detail. |
| 39. | One commenter requests clarification as to whether an issuer has to meet the appraisal requirement if it arises after finalization of an OM, but before the issuer accepts an agreement to purchase the security from a purchaser. | Yes, the requirement would apply in this instance. Please see our response to comment 28 for further detail. |

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| 40. | One commenter expressed concern about the appraisal requirement and the passage of time. Specifically, the commenter appears to be contemplating a situation where the appraisal requirement is triggered, and the issuer carries out ongoing distributions under the OM for longer than 6 months. In view of this scenario, the commenter suggests that the CSA reconsider the requirement that the appraisal be as at a date that is within 6 months preceding the date that the appraisal is delivered to the purchaser. | Please see our response to comment 38.<br><br>We also note that the appraisal requirements recently imposed in NI 45-106 with respect to syndicated mortgages included, in response to a recommendation from commenters, a requirement that the appraisal be dated within 6 months preceding the date that the appraisal is delivered to the purchaser. We believe that the same concern about currency of the appraisal applies to other distributions under the OM Exemption, and have therefore mirrored this requirement. |
| 41. | One commenter suggests that the appraisal date should be required to be within less than 6 months, if there has been an event that has a material adverse impact on the issuer's total portfolio. The commenter suggests that this could be most useful for issuers with properties that are in development or pre-development.<br><br>The commenter provided the expropriation of nearby properties as an example of an event that could have a material adverse impact on the issuer's total portfolio. | We acknowledge the comment. We have not made the suggested change, because we are concerned that the burden of a more nuanced requirement may outweigh its benefit.<br><br>We also note that the comment appears to contemplate a material change, and if so, the OM would be required to be amended. |
| *The appraisal requirement: increased fees* | | |
| 42. | One commenter asserts that appraisers may demand increased fees if their appraisal will accompany an offering document, due to perceptions about increased liability and/or reputational risk. | We acknowledge the comment. As noted, we have significantly scaled back the appraisal requirement. As also noted, we are of the view that for the narrowed set of circumstances in which the requirement will still apply, appraisals are necessary, despite the concern about higher fees. |
| *The appraisal requirement as to purchases from related parties: 2.9(19.5)(a)* | | |
| 43. | One commenter supports the requirement. | We thank the commenter for the support and input. |

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| 44. | The commenter highlights the following issues and makes certain suggestions.<br><br>The requirement is not limited by time or materiality, which would require an issuer to obtain appraisals for any real property acquired from a Related Party in perpetuity. This would create a very significant cost that effectively prohibits the use of the OM Exemption.<br><br>The purpose of this requirement appears to be to ensure that the Related Party transaction was fair. When making such determination, an investor should consider the fair market value of the property at the time of the transaction, not at the time that an offering memorandum is delivered, which could be well after the time of the transaction.<br><br>To better align this proposed requirement with what appears to be its purpose, we propose that: (i) issuers are only required to include an appraisal for a Related Party acquisition completed prior to the date of the offering memorandum if the financial statements included in the offering memorandum do not include the results of such acquisition for six months; and (ii) such appraisal, if required, be a one-time requirement to be dated within six months of the acquisition date (not the time of delivery of the offering memorandum).<br><br>Lastly, the commenter proposes that such appraisal requirement be subject to a materiality qualifier whereby an appraisal is only required if the acquisition represents at least 25% of the consolidated assets of the issuer, determined in accordance with C.2 of the instructions to Form 45-106F2. | Please see our response to comment 28.<br><br>We have not proposed a materiality threshold. However, as noted above, the appraisal requirement has been significantly scaled back. |
| 45. | Another commenter notes that the requirement captures all interests previously acquired from related parties, and indicates that this could be burdensome, and that the CSA should re-examine this requirement. | Please see our response to comment 28. |

| *The appraisal requirement as to use of a material amount of the proceeds: 2.9(19.5)(c)* | | |
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| 46. | One commenter disagrees with this requirement, and is of the view that the cost outweighs any benefit to investors. | Please see our response to comment 28. |
| 47. | One commenter disagrees with this proposed requirement. If the CSA decides to retain it, the commenter suggests clarifying the term “material amount”.<br><br>Another commenter also suggests that the CSA clarify “material amount”. | Please see our response to comment 28. |
| 48. | One commenter believes that different issuers may interpret the term “material” differently. The commenter also understands the requirement to potentially require appraisals on hundreds of properties, and makes suggestions for this case. | Please see our response to comment 28. |
| 49. | One commenter asserts that the requirement would work for issuers that are using the proceeds to purchase one interest in real property, but that it is unclear for issuers that plan to purchase multiple properties, because it is not clear for which interest in real property an appraisal would be required. The commenter also indicates that the requirement is unworkable for these issuers. | Please see our response to comment 28. |

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| 50. | One commenter asserts that the requirement to provide an appraisal if an issuer intends to spend a material amount of the offering proceeds on an interest in real property is unclear.<br><br>The commenter believes that an appraisal may be important for single purpose investments, i.e. an issuer's only activity relates to one property, but that the value of providing investors with appraisals diminishes if an issuer has a diversified portfolio of properties. The costs of providing appraisals in this case would be prohibitive.<br><br>The commenter is of the view that the Proposed Amendments should clarify that the requirement applies only if a material amount of the proceeds is directed to any one property. The commenter also believes that the term "material" should be clarified. | Please see our response to comment 28. |
| *The appraisal requirement: delivery, and delivery timing* | | |
| 51. | One commenter suggests that instead of physical delivery, the OM specify a web page on which any appraisals associated with an OM can be viewed. | As noted, we have significantly scaled back the appraisal requirement, reducing the instances in which an appraisal will be required.<br><br>For these instances, we have retained the structure of the current delivery requirement for appraisals in connection with syndicated mortgages. |
| 52. | One commenter notes that due to the length of some appraisal reports, it might not be practical to attach the reports to the OM. The commenter suggests that disclosure of the valuation and details regarding the appraiser in the OM with a digital link to the full report would be a more practical approach. | We note that the appraisal report is not required to be attached to the OM.<br><br>With respect to making appraisals available through a link, please see our response to comment 51. |

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| 53. | One commenter is of the view that an offering memorandum is typically prepared before an appraisal is requested, and as a result, suggests that the CSA reconsider the requirement that an appraisal would need to be delivered at the same time or before the issuer delivers an offering memorandum to the purchaser. | We are of the view that in order to be timely and relevant for investors, any appraisal needs to be delivered to the purchaser by the time the purchaser receives the OM. |
| *The appraisal requirement: fair market value* | | |
| 54. | One commenter believes the CSA should define the term "fair market value". | We intend "fair market value" to have its generally accepted meaning. |
| *The appraisal requirement: cannot consider any proposed improvements or proposed development* | | |
| 55. | One commenter asserts that the appraisal must be based on the current status of the project and not contemplate any change in value for significant events that have not yet occurred. | The Amendments specify that the appraisal "provides the appraised fair market value of the interest in real property, without considering any proposed improvements or proposed development". |
| 56. | One commenter supports this proposed requirement, especially for transactions involving related parties. | We thank the commenter for the support and input. |
| *Requirements when disclosing a value other that the appraised fair market value: 2.9(19.7)* | | |
| 57. | One commenter agrees with these provisions, and believes that such disclosure would be forward-looking information **(FLI**) or future-oriented financial information **(FOFI**), and suggests that the CSA reference the requirements pertaining to same. | Whether or not such disclosure would include FLI or FOFI would depend on its particular facts. We note that Instruction B. 14 of Form 45-106F2 imposes requirements in respect of FLI or FOFI that occurs anywhere in an OM. |
| 58. | One commenter believes this proposed requirement should also require disclosure of the inherent limitations and risks of the assumptions relied upon. | The provision requires disclosure of the material factors or assumptions used to determine the representation or opinion. We believe that this disclosure will be sufficient. |
| *Appraisal: filing requirement* | | |
| 59. | One commenter agrees with this requirement, notwithstanding any confidentiality concerns of appraisers or issuers. | We thank the commenter for the support and input. |

| *Form 45-106F2: cover page* | | |
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| 60. | One commenter is in favour of the new requirement for an issuer to state on the cover page if there is a working capital deficiency, as well as if they have paid dividends or distributions that exceeded cash flow from operations. | We thank the commenter for the support and input. |
| *Form 45-106F2: Item 1.2.1 (Proceeds Transferred to Other Issuers)* | | |

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| 61. | One commenter notes that in the circumstances described in the Item, an issuer would have to make extensive disclosure about another issuer, and the first issuer would bear the statutory liability for any misrepresentations in this material, not the other issuer. The commenter is concerned that this is unfair, given that despite whatever precautions the issuer may have taken, the issuer is still dependent on the other issuer for the information. | We acknowledge the comment. The requirement is meant to address scenarios where a significant amount of the proceeds of the offering are transferred to another issuer that is not a subsidiary of the issuer. We also note that the in-force requirement that an OM provide a reasonable investor with sufficient information to make an investment decision, and that the OM not contain a misrepresentation, would operate to require extensive disclosure on the other issuer in most cases.<br><br>However, our compliance work has revealed that some issuers do not make this disclosure, or do not make it to the correct extent. Item 1.2.1 is intended to protect investors by reducing those instances.<br><br>We also note that generally, staff have observed these arrangements taking place between Related Parties and in these cases we expect it will be easier and less burdensome for the issuer to obtain the information.<br><br>We also note that in the Amendments we have renumbered parts of the replacement Form 45-106F2 shown in the 2020 Proposed Amendments to eliminate repealed section numbers and decimal numbering (the **Renumbering**). Due to the Renumbering, Item 1.2.1 in the 2020 Proposed Amendments became Item 1.3 in the Amendments. |

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| 62. | One commenter notes that proposed Item 1.2.1 of Form 45-106F2 requires that if a significant portion of an issuer's business will be managed by another issuer, the disclosure required by several items of Form 45-106F2 as well as Schedules 1 and 2 if applicable be provided as if the other issuer were the issuer preparing the OM. For mortgage investment entities that are externally managed, this would include the manager. While requiring some of this information relating to the manager would be useful, other items such as the financial statements would result in significant additional regulatory burden and costs. This may also increase reluctance to use the OM exemption since the manager may not want to provide financial statements, particularly if they are involved in other businesses. | We note that the requirement applies if "a significant amount of the proceeds of the offering will be invested in, loaned to, or otherwise transferred to another issuer that is not a subsidiary controlled by the issuer", or if "a significant amount of the issuer's business is carried out by another issuer that is not a subsidiary controlled by the issuer".<br><br>We share the commenter's concern. We have deleted in the Amendments "a significant amount of the issuer's business is carried out by another issuer that is not a subsidiary controlled by the issuer". |
| *Form 45-106F2: Item 1.3 (Reallocation)* | | |
| 63. | One commenter notes that Item 1.3, which requires a statement indicating that funds would only be reallocated for sound business reasons, has been removed in the 2020 Proposed Amendments. The commenter is unsure if this removal means that such reallocation is no longer permitted, and would appreciate clarification. | The Amendments remove Item 1.3 because we do not think that it has any practical effect.<br><br>We note that the duties of management to run the issuer prudently come from other legal obligations, and we are of the view that Item 1.3 does not create these obligations, or supplement them. |
| *Form 45-106F2: Item 2.6.1 (Additional Disclosure for Issuers Without Significant Revenue)* | | |
| 64. | One commenter notes that this requirement appears to pertain to mining issuers, and suggests that it be amended to make this clear. | Although the requirement includes additional disclosure for mining issuers, it pertains to all types of issuers that meet the criteria of the section.<br><br>Due to the Renumbering, Item 2.6.1 in the 2020 Proposed Amendments became Item 2.7 in the Amendments. |

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| 65. | One commenter is also unclear whether the Item applies only to resource issuers, and suggests that the term "without significant revenue" should be more clearly defined.<br><br>The commenter would prefer a "revenue" section in the OM, focusing on how an issuer earns revenue. The commenter also stated that, as a best practice, issuers could provide a picture of anticipated sales given their revenue model, and referencing items 8 and 12 of the OM. | With respect to the application of the Item, please see our response to comment 64.<br><br>We have adapted this requirement from section 5.3 of NI 51-102, in which the term "without significant revenue" was used without a definition.<br><br>Issuers are permitted to include anticipated sales in their OM, provided that they comply with sections 4A.2 and 4A.3 of NI 51-102.<br><br>Under the current requirements, how an issuer will earn revenue should be discussed in order to meet the OM Standard of Disclosure. Therefore, we do not believe a separate section for revenue is necessary. |
| *Form 45-106F2: Item 2.7: (Material Contracts)* | | |
| 66. | One commenter observes that the section refers to material contracts to which the issuer is a party, yet the definition of material contract includes contracts entered into by a subsidiary of the issuer. The commenter suggests resolving this inconsistency. | We thank the commenter for the input. We have deleted, in the Amendments, the words "to which the issuer is currently a party".<br><br>Due to the Renumbering, Item 2.7 in the 2020 Proposed Amendments became Item 2.8 in the Amendments. |
| *Form 45-106F2: Items 3.1 (Compensation and Security Holdings of Certain Parties) and 3.2 (management experience)* | | |
| 67. | One commenter suggests that Items refer to not only directors but trustees. | Through the definitions incorporated into NI 45-106, trustees are included. |

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| 68. | One commenter believes that the requirements are intrusive and exceed the bounds of privacy, for example, place of residence, expected compensation, and experience associated with principal occupation. The commenter suggests that experience related to the person's role in the issuer would be more helpful to a purchaser.<br><br>In addition, the commenter believes including beneficial owners holding more than 50% of a non-individual person in Item 3.1 is not helpful for investors. | We submit that except for the addition of related parties not already included in the other parties identified, the changes to these items are of an organizational nature, and the elements that the commenter is highlighting are already contained in the in-force legislation.<br><br>We continue to believe that this disclosure is relevant to investors. |
| *Form 45-106F2: Item 3.3 (Penalties, Sanctions and, Bankruptcy, Insolvency and Criminal or Quasi-Criminal Matters)* | | |
| 69. | One commenter suggests that the disclosure regarding penalties or sanctions for contravening securities legislation be with respect to any time in the past, instead of limited to the 10 years preceding the date of the OM. The commenter notes that this approach is taken in Item 13.1(d) of Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*, which requires the applicant to disclose whether they have ever been subject to any disciplinary proceedings or order under securities or derivatives legislation. | We acknowledge the comment. In this case, we have made the requirement consistent with other such requirements that apply to issuers, such as Item 10.2 of Form 51-102F2 *Annual Information Form*, rather than requirements pertaining to registrants. |
| 70. | One commenter was supportive of the requirements in Item 3.3 to disclose penalties or sanctions for contravening securities legislation. | We thank the commenter for the support and input. |
| *Form 45-106F2: Item 4.2 (Long Term Debt Securities)* | | |
| 71. | One commenter suggests removing "Securities" from the heading of this section, as the text of the section requires disclosure of all indebtedness, such as bank credit facilities. | We thank the commenter for this input. We agree with the commenter that the item would include bank credit facilities. Although the definition of "security" in the local securities acts includes various forms of debt, we agree that for convenience and ease of use, it makes sense to remove the word "securities" from the title. |

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| 72. | One commenter is of the view that in providing the disclosure about the interest rate, the issuer should be required to specify whether the rate is fixed or variable, which will help determine whether there is a risk that the rate could go up. | We expect that that issuers will specify whether the rate is fixed or variable. |
| *Form 45-106F2: Item 5A (Redemption and Retraction History) and Item 5B (Certain Dividends or Distributions)* | | |
| 73. | One commenter believes that some of the information required in proposed Items 5A and 5B may be harmful to issuers, because it will disclose information to their competitors that can be used against them. | We recognize that the items require disclosure of potentially sensitive information, but we are of the view that any risk to an issuer's competitive position is outweighed by the importance of the disclosure to investors.<br><br>Due to the Renumbering, Item 5A in the 2020 Proposed Amendments became Item 6 in the Amendments. |
| 74. | One commenter suggested additional disclosure requirements for Item 5A aimed at disclosure of redemption or retraction requests that have not been fulfilled because an investor was not willing to accept redemption notes. | All repurchase requests that have not been fulfilled must be reflected in the table set out in Item 6. |
| 75. | One commenter is not convinced that the information to be provided in the column entitled "source of funds used to complete the redemptions or retractions" of Item 5A(1)(a) would be useful information to investors. As money is fungible, it is artificial for an issuer to allocate a particular source of funds to redemptions compared to other matters. For example, it appears that an issuer with revenue that is continuing to raise capital could insert either of those sources in this column. | We acknowledge the commenter's point about the fungible nature of money. We continue to believe that an issuer's best efforts to pinpoint the source of funds will be informative for investors. |

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| 76. | One commenter was supportive of the additional disclosure relating to redemptions in the 2020 Proposed Amendments, including restrictions on redemptions, and the amount of requests received and fulfilled.<br><br>However, the commenter believes that determining and disclosing the source of funds might be difficult, particularly for mortgage investment entities, because of the numerous types of cash flows typical of these entities. The commenter would prefer that the source of funds be eliminated from the required disclosure. | Please see our response to comment 75. |
| 77. | One commenter strongly supports Item 5A and believes it will be helpful to investors. | We thank the commenter for the support and input. |
| 78. | One commenter suggested that Item 5B require more detailed disclosure and explanation. | We did not increase the requirements of Item 5B due to concerns about imposing undue burden on issuers.<br><br>Due to the Renumbering, Item 5B in the 2020 Proposed Amendments became Item 7 in the Amendments. |
| 79. | One commenter strongly supports Item 5B, advising that the source of funds for dividends and distributions is an important indicator of possible cash flow constraints, and that it can help investors identify if the issuer is raising capital to fund existing distribution (or redemption) obligations. | We thank the commenter for the support and input. |
| *Form 45-106F2: Instruction A. 5.1 (relating to maximum offering amount)* | | |
| 80. | One commenter made two comments about this instruction:<br>• That the CSA should provide guidance on what “reasonably expects” means.<br>• That the CSA should clarify whether the instruction contemplates only the issuer’s fiscal year, or some other time period. | With respect to “reasonably expects”, we have used this wording so that the test is objective.<br><br>With respect to the time period contemplated in the instruction, the instruction specifies “under the offering memorandum”. This is intended to capture the total amount raised under the OM, for however long the issuer intends to raise money under it. |
| *Form 45-106F2: Instruction B. 12.1 (b) (for ongoing distributions, amending the OM to include an interim financial report for the issuer’s most recently completed 6-month period)* | | |

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| 81. | One commenter is strongly opposed to this proposed requirement, for reasons that include the following:<br>• Increased burden on issuers.<br>• The requirement is inappropriate for issuers that are not reporting issuers.<br>• The requirement will deter issuers from using the OM Exemption.<br>• The required review of the amended OM by management, legal counsel and the exempt market dealer (**EMD**) will increase burden.<br>• Increased translation costs relating to the report and any other amendments.<br><br>If the CSA goes ahead with the requirement, the commenter made suggestions that include the following:<br>• That the report be filed on the System for Electronic Document Analysis and Retrieval (**SEDAR**) rather than included in the issuer's OM.<br>• EMDs have a 90 day period to review the report, and are not required to cease acting within that period unless there are obvious defects. | Due to the lack of support for this proposal and high level of concern expressed by commenters, the members of the CSA, except Ontario, are not pursuing this requirement.<br><br>In Ontario:<br>• We published a cost-benefit analysis with the 2020 Proposed Amendments and concluded that the anticipated benefits outweighed the costs. Commenters did not provide details of specific costs that were not considered in our cost-benefit analysis other than French translation, which does not apply in Ontario.<br><br>• While we continue to be of the view that amending the OM to include an interim financial report for the issuer's most recently completed 6-month period is appropriate, in response to comments, we have added an exemption to this requirement. The exemption would allow issuers to not amend their OM to include a 6-month financial report if the issuer appends an additional certificate to its OM that certifies that (i) the OM does not include a misrepresentation when read as of the date of the additional certificate, (ii) there has been no material change in relation to the issuer that is not disclosed in the OM, and (iii) the OM, when read as of the date of the additional certificate, provides a reasonable purchaser with |

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| | | sufficient information to make an informed investment decision.<br><br>• Since the OM Exemption is premised in part on disclosure to prospective investors, we believe this approach balances investor protection while recognizing the possibility that an issuer in continuous distribution may not have had any material changes.<br><br>• The CSA has added guidance to 45-106CP on materiality determinations. |
| 82. | One commenter made a general comment that this requirement will be very costly for issuers. | Please see our response to comment 81. |
| 83. | Rather than requiring an issuer to amend its OM to include the interim financial report for its most recently completed 6-month period, one commenter suggests a requirement to file the interim financial report. The commenter notes that amending an OM is very costly, and that this requirement would require some issuers to amend their OM after only a few months.<br><br>The commenter also notes that this is similar to the shelf prospectus regime, and that the OM will still be required to be amended if a material change occurs. | Please see our response to comment 81. |

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| 84. | One commenter was also concerned about the time and costs involved in amending an OM, and believes that the benefits of including the interim financial report for the most recently completed 6-month period when distributions are ongoing may be outweighed by the burden on issuers. The commenter suggested that as an alternative, issuers could be encouraged to make this report available to investors, but not be required to incorporate the report into the document. | Please see our response to comment 81. |
| 85. | One commenter was of the view that more frequent amendments to an OM will require more frequent reviews by EMDs to fulfill their know-your-product obligations, which could cause delay, and could cause issuers to distribute via channels that do not involve a registrant, which would decrease investor protection. | We acknowledge the comment. We note that know-your-product obligations apply to registrants at the time of sale, and are not limited to instances when an OM is amended. |

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| 86. | One commenter is of the view that this requirement will impose significant regulatory burden and cost. The commenter explains that it amends its offering memorandums annually, which includes obtaining real property appraisals that are relied on in connection with the financial statements, and review by its external legal counsel, auditors and independent trustees. The commenter also translates its amended OMs into French. The commenter advises that this process as a whole is very costly.<br><br>The commenter submits that the true cost of this requirement was not fully captured in the cost analysis in the local Ontario annex.<br><br>The commenter does not support this requirement for the following additional reasons:<br>• In the commenter's view, a 6-month interim financial report typically does not include significant new information.<br>• The commenter has never received a request for this report.<br>• Any significant change in financial position constituting a material change would require an amendment in any event.<br><br>If the CSA proceeds with this requirement, the commenter suggests that requiring the issuer to file the statements on SEDAR rather than amending the OM would be much less burdensome. | Please see our response to comment 81. |
| 87. | One commenter is of the view that the requirement to amend the OM to include 6 month interim financial statements will result in significant additional costs and is unnecessary. The commenter feels that the requirement to update the OM when material changes have occurred is sufficient. | Please see our response to comment 81. |

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| 88. | One commenter asserts that the current financial statement requirements, along with the requirement that the OM not contain a misrepresentation, are sufficient and that the benefit of 6 month interim financial statements is outweighed by the additional costs. | Please see our response to comment 81. |
| 89. | One commenter is of the view that the requirement to amend the OM to include interim financial statements for a six month period is unnecessary since the OM must already be amended if there is a material change. The commenter asserts that this will result in additional costs that will be borne by the investor, as it will reduce their return on investment. | Please see our response to comment 81. |
| *Form 45-106F2: Instruction B. 12.1: clarification* | | |
| 90. | One commenter is seeking clarification on the effect of Instruction B. 12.1. Specifically, the commenter seeks confirmation of its understanding that assuming the OM is not otherwise required to be amended, Instruction B. 12.1 would not cause more than two amendments of an OM per year. The commenter provided examples to illustrate its understanding. | Please see our response to comment 81. |
| *General Comments about Schedules 1 and 2* | | |
| 91. | One commenter believes that the requirements of Schedules 1 and 2 are very extensive, and therefore onerous for issuers.<br><br>The commenter also believes that the disclosure of some of the information could be harmful as to an issuer's competitive position. | We acknowledge the concern about burden. We submit that the Amendments have been changed from the 2020 Proposed Amendments in a way that strikes an appropriate balance between concerns about burden and concerns about investor protection.<br><br>We respectfully disagree with the comment about an issuer's competitive position. We believe that a prospectus exemption that is premised on a disclosure document, such as the OM Exemption, emphasizes disclosure to investors over keeping information confidential. |

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| 92. | One commenter agrees with most of the disclosure requirements in Schedule 1. | We thank the commenter for the support and input. |
| 93. | One commenter states that they believe the disclosure required by Schedules 1 relating to the condition, background and transaction history of the property is reasonable and appropriate. | We thank the commenter for the support and input. |
| 94. | One commenter welcomes the 2020 Proposed Amendments as they apply to CIVs. The commenter supports the additional requirements relating to the disclosure of a CIV's investment objectives and strategies, as well as the inclusion of a portfolio summary, as they are necessary changes to ensure that investors have sufficient information to make informed investment decisions. The commenter views many of these changes as aligning with current best practices. | We thank the commenter for the support and input. |
| 95. | Two commenters agree with most of the disclosure requirements in Schedule 2. | We thank the commenters for the support and input. |
| 96. | One commenter was supportive of the requirements in proposed Schedule 1. The commenter notes that Real Estate Issuers can often have complex structures, and that the need for clarity on an issuer's working relationships or planned use of funds is essential.<br><br>The commenter is also supportive of the disclosure required by sections 3 and 4 of Schedule 2.<br><br>The commenter also stated that providing direction that the additional disclosure required by Schedules 1 and 2 should be included in Item 2.2 of the OM may be helpful as this would ensure that this disclosure is near the start of the OM. | We thank the commenter for the support and input.<br><br>The instructions to Schedule 1 and Schedule 2 state that issuers can integrate the disclosure from the schedules into their OMs where they choose. This is so an issuer can ensure that the disclosure in its OM is clear and logically organized. |
| 97. | One commenter is supportive of the portfolio disclosure required by Schedule 2 including investment strategy, portfolio composition and performance data. | We thank the commenter for the support and input. |
| *Form 45-106F2: Schedule 1: Section 2 (Application)* | | |

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| 98. | One commenter is requesting clarification in respect of subsection 2(2), which limits the application of Schedule 1. The commenter would like further guidance regarding when this limitation would apply.<br><br>The commenter is of the view that this limitation is important, as an issuer with a large portfolio would need to provide large volumes of information to meet the requirements of section 3 of Schedule 1. While this may be appropriate for an issuer with a single property, the commenter believes that for issuers with a large portfolio, the information currently provided by issuers in the OM is more useful than the disclosure required by section 3. | We believe that subsection 2(2) allows an issuer to make a determination, based on its own particular circumstances.<br><br>With respect to section 3, we note the following. First, subsection (2) allows an issuer making disclosure for multiple properties to present the information on a summarized basis.<br><br>Second, with respect to the content of section 3, as explained below, we have made changes to address certain of the commenters' concerns, and to make the requirement more practical for issuers with a portfolio of properties. |
| *Form 45-106F2: Schedule 1: Section 3 (Description of Real Property)* | | |
| 99. | Two commenters assert that the requirement to set out the legal description of the interest in real property will be burdensome, and that instead the municipal address should suffice.<br><br>One of the commenters owns condominium buildings, whose legal descriptions are especially lengthy as they are made up of the legal descriptions of all the units. | We acknowledge the comment. We have revised the provision to require the address or other description, to allow issuers other options beyond the legal description to describe the location of the real property. |
| 100. | One commenter advises that minutia such as standard encumbrances (such as utilities easements), utilities providers, or minor legal proceedings are not necessary for investors to make an investment decision in most cases. The commenter suggests that a materiality threshold should be added to this section so that issuers and investors can focus on information that materially affects the value of such real property and would thus be important for investors to know. | Regarding paragraph 3(1)(c), we have qualified this requirement by making it as to encumbrances that would be material to a reasonable investor.<br><br>We have made the same qualification to subsection 3(3).<br><br>Regarding paragraph 3(1)(g), we have revised it so that it only applies if utilities and other services are not currently being provided. |

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| 101. | One commenter believes that because disclosure about encumbrances could be lengthy, only material encumbrances should be required to be disclosed. | Please see our response to comment 100. |
| 102. | With respect to disclosure about encumbrances, one commenter notes that descriptions of easements can be lengthy, and submits that this information is not useful to investors. The commenter suggests that easements be excluded from paragraph 3(1)(c). | Please see our response to comment 100. |
| 103. | With respect to disclosure about how and by whom utilities will be provided, one commenter questioned whether such disclosure is necessary.<br><br>Another commenter asserted that because utilities are usually municipally owned or heavily regulated, and there is sometimes no choice of provider, this information is not useful to investors. | Please see our response to comment 100. |
| 104. | Two commenters suggest that the disclosure required by paragraph 3(1)(k) of occupancy level for issuers that are landlords could be misleading on its own, because landlords often give rent incentives or abatements that result in tenants occupying space, but not paying rent.<br><br>One of the commenters indicated that the extent of rent abatements or discounts in place should be disclosed. | We are concerned that the requirement to make disclosure about rental incentives or abatements could create undue complexity.<br><br>We note that an OM must meet the OM Standard of Disclosure. For example, if an issuer disclosed a 100% occupancy rate but had provided significant rental incentives or abatements that were not disclosed, this likely would not meet the OM Standard of Disclosure. |

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| 105. | One commenter asserted that occupancy levels of real property should only be required to be disclosed if it is material information.<br><br>The commenter observed that the materiality of occupancy levels can vary depending on the type of property, or the individual property, and suggests that it be left to the issuer to determine if disclosure of occupancy levels is necessary to meet the OM Standard of Disclosure.<br><br>The commenter also wondered if small changes in occupancy levels would require an amendment to an OM. | We are of the view that in most cases, occupancy level of leased property is material to the issuer.<br><br>With respect to when an OM is required to be amended, please see the changes to the 45-106CP. |
| 106. | One commenter observes that subsection 3(2) attempts to alleviate the burden on issuers who hold 20 or more interests in real property. The commenter is of the view that 20 is an arbitrary number for providing this type of relief. If a Real Estate Issuer has multiple properties of a similar class or with similar characteristics, the commenter suggests that the issuer should be allowed to disclose such information summarily. | We acknowledge that there is an arbitrary element to bright-line tests. In this case, in order to make summarized disclosure a more useful accommodation, we have reduced the property threshold to 10. |
| *Form 45-106F2 Schedule 1: Section 7 (Transfers)* | | |
| 107. | One commenter supports the disclosure about real property transactions with Related Parties, including the requirement to disclose the consideration paid. The commenter believes that there should be an additional column where the basis for the consideration would be described, including the valuation methodology (e.g. price in the purchase and sale agreement, valued at NAV, carrying cost). The commenter also believes it should be required to disclose whether an independent valuation was made available. | We note that the disclosure calls for the consideration actually paid, rather than any methodology supporting it, or additional information made available at the time. As noted by the commenter, the purpose of this disclosure, and the other disclosure that would be required by the section, is to assist investors in evaluating whether or not the transaction with the Related Party was fair. We think that the requirements of the section accomplish this, and would be concerned about the burden associated with adding the disclosure suggested by the commenter. |

| *Form 45-106F2 Schedule 1: Section 6 (Developer, or Manager under a Rental Pool Agreement or Rental Management Agreement: various information)* | | |
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| 108. | One commenter is concerned by the application of this section to persons that are not affiliates of the issuer. The commenter is concerned that the information required in this section is significant and onerous for an issuer to obtain when applied to third parties and it would be difficult, if not impossible, for an issuer to verify such information for third parties with sufficient certainty to allow the issuer's representatives to sign the certificate in the offering memorandum. In the case of a person to be disclosed in this section that is arm's length to the issuer, the commenter proposes that the disclosure be limited to the identity and experience of such person (proposed paragraph 6(2)(a)). | We acknowledge the concern about the burden and difficulty of this disclosure. However, we believe it is important for investors to know if critical parties such as developers or rental pool managers have recent insolvencies or sanctions. We are of the view that issuers should exercise care in selecting such parties and do the due diligence required to support the disclosure. |
| *Form 45-106F2 Schedule 1: Sections 8 and 9 (approvals)* | | |
| 109. | One commenter advised that when developing real property, there is so much uncertainty that often much of the information in proposed sections 8 and 9 cannot be known. The commenter suggests that these sections be subject to an overarching "if known and available" qualification. | In our view, this information is important, and can be determined or anticipated by the issuer. |
| 110. | One commenter asserts that, in regard to disclosing a description of the approvals or permissions required, there may be a significant number of approvals and permits required. Some of these may be routine and basic while others may be significant and uncertain. The commenter suggests that the disclosure should differentiate between permits and approvals based on their significance and uncertainty. | We have revised paragraph 8(a) to specify that it is with respect to any approval that would be material to a reasonable investor. |
| *Form 45-106F2: Schedule 1: Section 10 (Future Cash Calls)* | | |

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| 111. | One commenter notes that while they would prefer that issuers with large portfolios not be subject to the requirements in Schedule 1, they are supportive of a disclosure requirement for any future cash calls or potential future contributions. | We thank the commenter for the input.<br><br>With respect to issuers with large portfolios, please see our response to comment 106. |
| *Form 45-106F2 Schedule 2: section 3 (Portfolio Summary)* | | |
| 112. | One commenter proposes that with respect to subsection (1), instead of this information being provided as at a date not more than 60 days before the date of the offering memorandum, that it be provided as at a date that is not prior to the end of the last financial period for which financial statements are required to be included in the offering memorandum, as many CIVs assess their portfolio at the time that financial statements are prepared. | We acknowledge the comment. We are of the view that this information should be reasonably current. We are also of the view that an issuer should be aware of this information at a recent date in order to meet the OM Standard of Disclosure. |
| 113. | One commenter expressed concern about issuers amending loan terms in favour of a borrower order to avoid a default, and believes that such measures should be clearly disclosed.<br><br>The commenter made similar comments about payment deferrals or reductions, such as in response to the COVID-19 pandemic. | We share the commenter's concern. We have added a new provision as paragraph (j) of subsection 3(3) that requires disclosure of such accommodations, if they would be material to a reasonable investor. |
| 114. | One commenter believes that for issuers involved in factoring or otherwise holding receivables, the information on the portfolio should include information on the underlying business risks (e.g. with respect to potential non-payment of foreign receivables). | All issuers are required to disclose risk factors under Form 45-106F2 Item 8. |
| 115. | One commenter expressed concerns that the requirements in subsection (3) could allow competitors to determine information about a specific mortgage to identify the property or the borrower. The commenter is specifically concerned with the requirement to disclose the property's location in accordance with paragraph (3)(k). | In our view, location does not need to be specific enough to identify the specific property. We also don't view the other information required to be disclosed in subsection (3) as being specific enough to identify the borrower. |

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| 116. | One commenter asserts that while the requirement to disclose NAV may be appropriate for an investment fund managed by a portfolio manager, this requirement may not be appropriate for other types of issuers that would be considered CIVs. The commenter notes that this requirement may lead to an inexperienced issuer providing inaccurate information. | We have removed the definition of NAV, as we intend NAV to have its generally accepted meaning.<br><br>In our view, CIVs will be able to determine NAV in accordance with such generally accepted meaning. |
| *Form 45-106F2 Schedule 2: section 4 (Portfolio Performance)* | | |
| 117. | One commenter agrees with requiring portfolio performance information, but is concerned that the requirement will cause an OM to be amended more frequently than would otherwise be the case. | Under subsection 2.9(13.2) of NI 45-106, an OM must be amended if there is a material change between the date its certificate is signed and when the issuer accepts an agreement to purchase the security.<br><br>Under subsection 2.9(13.3) of NI 45-106, an OM delivered under the section must provide a reasonable purchaser with sufficient information to make an informed investment decision. This requirement could also cause an OM to be required to be amended.<br><br>An OM would be required to be amended to reflect significant changes in portfolio performance, if subsections 2.9 (13.2) or (13.3) are triggered. |
| 118. | One commenter believes that the CSA should publish guidance on the regulatory expectations for the preparation of portfolio performance information. | We are concerned that additional instructions or frameworks could add burden for issuers.<br><br>As a result, the requirement contemplates that issuer can calculate portfolio performance as it deems appropriate, subject to certain parameters as set out in the section, and subject to other general standards, such as the OM Standard of Disclosure. |

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| 119. | One commenter is of the view that the requirement to provide performance data requires further clarification for mortgage investment entities. Investors in these entities are ultimately interested in target and historical yields. For mortgage investment entities, the 2020 Proposed Amendments should clarify that the performance data provided relates to historical dividends or distributions paid. | Subject to the OM Standard of Disclosure, issuers are free to add any clarifying disclosure they feel is necessary in their OMs. For example, if a mortgage investment entity believes that an explanation regarding its performance data would be useful to investors, it can include this disclosure in its OM. |
| 120. | One commenter stated that the 10 year period required for performance data may be too long, depending on the nature of the performance data required, and formulating this data may be too burdensome for some issuers. | The 10 year requirement is to ensure a thorough depiction of the issuer's past performance.<br><br>Issuers should have the inputs necessary to calculate performance data for this period. Regarding burden, the requirement allows an issuer to calculate portfolio performance as it deems appropriate, subject to certain parameters as set out in the section, and subject to other general standards, such as the OM Standard of Disclosure. |
| 121. | Regarding performance information for the most 10 recently completed financial years, one commenter requested clarification of the expectations for issuers with less than 10 years of history. The commenter also requests additional guidance as to how the performance data should be presented. | Issuers with less than 10 years of history should disclose available performance data since inception.<br><br>We are concerned that additional instructions or frameworks could add burden for issuers.<br><br>As a result, the requirement contemplates that the issuer can calculate portfolio performance as it deems appropriate, subject to certain parameters as set out in the section, and subject to other general standards, such as the OM Standard of Disclosure. |
| *Form 45-106F4* Risk Acknowledgement | | |

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| 122. | One commenter recommends changing the line "You will not receive advice – [Instruction: Delete if sold by registrant] to [Instruction: Delete if sold by a registered portfolio manager] as other registrants such as EMDs do not provide investment advice. | Investment dealers and EMDs provide suitability advice, and therefore deleting this sentence if the securities have been sold by a registrant remains appropriate. |
| 123. | One commenter asserts that the language "the issuer of your securities is a non-reporting issuer" is confusing given that issuers must publicly provide audited financial statements at the time of the distribution, along with a Form 45-106F16 *Notice of Use of Proceeds* annually, as applicable. | Reporting issuer is a defined term in local securities acts. Despite the fact that issuers using the OM Exemption are required to make annual filings in some jurisdictions, this fact alone does not make such issuers reporting issuers. Therefore, it is still important to include this statement in Form 45-106F4 *Risk Acknowledgement* (**Form 45-106F4**). |
| 124. | One commenter is concerned about the revised warning at the top of Form 45-106F4. The commenter believes that the warning implies that it is likely that an investor will lose all of their money. The commenter believes that this new warning will make it more difficult to raise capital. The commenter also notes that, due to the nature of a mortgage investment entity's investments, a total loss of invested capital is unlikely. | This change is being proposed to improve consistency with other forms that have adopted this language, including Form 45-106F9 *Form for Individual Accredited Investors* and Form 45-108F2 *Risk Acknowledgement*. |
| *Miscellaneous comments* | | |
| 125. | On commenter asserted that all requirements pertaining to real estate under the OM Exemption should be in one place. Accordingly, the commenter strongly supports the information in local notices for British Columbia and Alberta indicating that if the 2020 Proposed Amendments or a version of them is enacted, BCSC staff plan to seek the repeal of BC Form 45-906F *Offering Memorandum – Real Estate Securities* and ASC staff plan to seek the repeal of ASC Rule 45-509 *Offering Memorandum for Real Estate Securities*. | We thank the commenter for the support and input. |

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| 126. | One commenter believes that there is no cogent rationale underlying the 2020 Proposed Amendments, and that the statement made by the CSA that larger, more complex issuers are using the OM Exemption than those originally envisioned is not a basis for the proposal. The commenter asks if there are specific deficiencies that regulators have identified.<br><br>The commenter is also concerned that the proposal will have a negative effect on smaller issuers. | The statement made by the CSA that larger, more complex issuers are using the OM Exemption than those originally envisioned was intended as background and context to the proposals.<br><br>The 2020 Proposed Amendments respond to an identified need for better disclosure by Real Estate Issuers and CIVs. The General Amendments that were included in the 2020 Proposed Amendments were based on issues identified in compliance reviews of OMs.<br><br>We acknowledge that there is burden associated with the Amendments (for all sizes of issuers), but we believe that the burden is justified by the benefit of a clearer disclosure framework for issuers and improved disclosure for investors. |
| 127. | One commenter expressed concern about continuous disclosure obligations being imposed on issuers relying on the OM Exemption. | The 2020 Proposed Amendments do not impose continuous disclosure requirements. |
| 128. | One commenter observed that because the OM Exemption allows access to retail investors, structures are often designed to qualify for tax-deferred plans. The commenter is of the view that National Policy 41-201 *Income Trust and Other Indirect Offerings* is instructive when preparing offering memorandums for more complex structures. | We acknowledge the comment. |
| 129. | One commenter suggested that if the 2020 Proposed Amendments are adopted, ongoing reviews of the effectiveness of the amendments should be done. The commenter also suggested that guidance should be published to identify any compliance issues as to the amendments, so that they can be corrected. | We acknowledge the comment. Reviews for compliance with requirements are undertaken based a prioritized approach and available resources.<br><br>Any additional guidance would be proposed on an as-needed basis. |

| 130. | One commenter observed that SN 45-309 specifically identifies OM deficiencies relating to mortgage investment entities and real estate development entities. The commenter is unsure why the principles outlined in SN 45-309 no longer apply and why the new requirements in the 2020 Proposed Amendments are necessary. | SN 45-309 contains guidance, and therefore issuers are not required to follow its recommendations. While some issuers have followed the guidance, others have not incorporated the guidance in their OMs.<br><br>We note that some of the guidance in SN 45-309 has been put in the form of requirements in the Amendments. We also plan to revise SN 45-309 and publish such revised version in conjunction with final amendments.<br><br>Additionally, SN 45-309 was published in 2012. Since this time, compliance reviews have indicated the need for tailored disclosure requirements to ensure that OMs provide sufficient information for purchasers to make an informed investment decision. |
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| *Comments falling outside the scope of the project* | | |

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| 131. | One commenter made a large number of comments that fell outside the scope of the project or were otherwise not feasible to respond to in detail.<br><br>The comments included the following specific comments:<br>• The OM Exemption should be made more suitable for early stage businesses.<br>• Proposed Item 4.1 of Form 45-106F2 should provide more detailed disclosure.<br>• The CSA should provide guidance on acceptable and unacceptable information from experts or other third parties that is included in an OM<br>• There should be a requirement for issuers to make disclosure about any other offering taking place concurrently with the offering under the OM.<br>• Newly-formed issuers with nominal assets should not be required to include audited financial statements in the offering memorandum.<br><br>Other comments concerned the following topics:<br>• CSA member OM review and compliance programs.<br>• Form 45-106F2 items relating to insufficient funds and minimum offering.<br>• Form 45-106F2 Item 1.2.<br>• Form 45-106F2 Item 2.1.<br>• Accounting principles that should apply to United States organized issuers using the OM Exemption.<br>• Director independence and corporate governance. | We acknowledge the comments. |

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| *Comments falling outside the scope of the project: the OM Exemption should be harmonized across Canada* | | |
| 132. | One commenter urged the CSA to harmonize prospectus exemptions across Canada, including the OM Exemption. The commenter's observations included that the requirement to incorporate OM marketing materials into an OM is not uniform across Canada. The commenter made the same point about the availability of the OM Exemption for investment funds. | We acknowledge the comments. |
| *Comments falling outside the scope of the project: investment funds and the OM Exemption* | | |
| 133. | One commenter observed that currently, the availability of the OM Exemption to investment funds varies depending on province. With the proposed amendments relating to CIVs, investment funds would need to provide all of the disclosure applicable to CIVs. In light of such enhanced disclosure and its similarity to disclosure requirements for public investment funds, the commenter urges the CSA to allow investment funds to use the OM Exemption. | We acknowledge the comments. |
| 134. | One commenter believes that all investment funds should be able to use the OM Exemption in all jurisdictions of Canada.<br><br>The commenter asserts that the new requirements for CIVs will provide robust enough disclosure for investment funds.<br><br>The commenter also notes that investment fund managers are registrants, and indicates that registration provides investor protection. | We acknowledge the comments. |
| *Comments falling outside the scope of the project: investment limits should not apply to CIVs and Real Estate Issuers* | | |

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| 135. | One commenter asserts that issuers avoid the use of the OM Exemption in jurisdictions where investment limits apply. The commenter's view is that if the 2020 Proposed Amendments are adopted, the investment limits should no longer apply to issuers that are CIVs or Real Estate Issuers due to the added protection provided by the additional disclosure imposed by the 2020 Proposed Amendments. | Although we acknowledge the commenter's point and agree that additional disclosure is required for Real Estate Issuers and CIVs under the Amendments, revisiting the investment limits is outside the scope of the project. |
| *Comments falling outside the scope of the project: whether videos are OM marketing materials* | | |
| 136. | One commenter discussed the view that a video presentation relating to an offering under the OM Exemption could be OM marketing materials. | We acknowledge the comment. Guidance about OM marketing materials is outside the scope of the project. |
| *Comments falling outside the scope of the project: using OM marketing materials to amend an OM* | | |
| 137. | One commenter discussed the view that an OM can be amended using OM marketing materials, and certain ramifications of that. | We advise that OM marketing materials were never intended to be a means of amending an OM. |
| *Comments falling outside the scope of the project: concerns about OM marketing materials* | | |

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| 138. | One commenter expressed concern about OM marketing materials, stating that they can be overly promotional. The commenter noted that in some jurisdictions, OM marketing materials are required to be incorporated by reference into an OM.<br><br>The commenter cited certain specific concerns, including inadequate disclosure of risks, fees and assumptions. The commenter called for stricter rules on the composition of OM marketing materials, to ensure they are balanced. | Changes in respect of OM marketing materials are outside the scope of this project. However, we wish to make responses to certain of the commenter's comments.<br><br>A standard for marketing materials specifically (i.e. the marketing materials on their own) was originally proposed in connection with the 2013 Marketing Amendments, but was not adopted (for further information, see the CSA notice of amendments dated May 30, 2013).<br><br>As noted above, for OM marketing materials that are incorporated by reference into an OM, the OM must meet the standard of disclosure set out in subsections 2.9(13.1) to (13.3) of NI 45-106 (the **OM Standard of Disclosure**).<br><br>In addition, as also noted above, all communications are subject to the prohibition on misleading disclosure contained in local securities acts. |
| *Comments falling outside the scope of the project: statutory liability for independent professionals* | | |

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| 139. | One commenter asserted that with respect to independent professionals (**Experts**), there is no statutory right of action for investors against them with respect to their reports included in an OM (**Right of Action as to Expert Reports**).<br><br>The commenter is also of the understanding that Experts do not owe a legal duty of care under common law to investors who may have relied on their reports when they made their investment decision.<br><br>Based on the foregoing, the commenter makes certain suggestions, including:<br>• Until a Right of Action as to Expert Reports is implemented by securities regulators across Canada, the CSA should consider eliminating the requirement to include Expert reports and, instead, make their inclusion voluntary.<br>• Including a requirement for the Expert to consent to disclosure of their report, which would make the Right of Action as to Expert Reports introduced by British Columbia in 2019 enforceable.<br>• Including a document in Form 45-106F2 that would clarify the Expert's role, rights and obligations to investors.<br>• That the cautionary language in Item 11.2 of Form 45-106F2 be changed from encouraging investors to obtain (costly) legal advice, to stating that investors are unable to sue Experts at common law. There should also be a summary of this disclosure or cross-reference to it on the cover page of the OM. | We acknowledge that some jurisdictions currently do not have legislation enabling a Right of Action as to Expert Reports. The CSA does not at this time have a project to introduce a harmonized Right of Action as to Expert Reports or a harmonized requirement for experts to file a consent for their expert reports. These matters may be considered in the future, depending on regulatory priorities. Any future work in this area would consider burden on issuers and any corresponding benefit to investors.<br><br>We make no comment regarding the potential liability under common law of Experts for reports provided in connection with an OM. |
| *Comments falling outside the scope of the project: revisit the entire Form 45-102F2 to simplify and condense it* | | |

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<tr><td>140.</td><td>One commenter suggests that when time permits, the CSA review Form 45-106F2 in its entirety and, after consulting with users and preparers of OMs, condense, simplify and ‘plain language’ the document. The commenter indicates that for example, more than half of the in-force Form 45-106F2 is devoted to instructions regarding financial statements.<br><br>The commenter believes that this would make it easier for issuers, particularly small businesses for which the OM Exemption was originally created, to comply with the disclosure requirements.</td><td>We acknowledge the comments.<br><br>With respect to financial statement requirement instructions specifically, we note that if a disclosure document is required to include financial statements, instructions of significant detail and length are necessary. This can be seen in the prospectus rules, and in National Instrument 51-102 Continuous Disclosure Obligations (NI 51-102).</td></tr>
<tr><td colspan="3">Comments falling outside the scope of the project: request for enhanced plain language instruction, summary information, and cross-referencing</td></tr>
<tr><td>141.</td><td>The commenter encourages the CSA to consider imposing a “plain language requirement” for specific portions of the OM, including the summary section, with cross references to where more detailed disclosures can be found in the document.</td><td>Instruction A. 2 to the Form 45-106F2 instructs issuers to draft the OM so that it is easy to read and understand, using plain language and avoiding technical terms.<br><br>In-force Form 45-1065F2 requires certain summary information, with cross-references to where more detailed disclosure can be found. The Amendments have added additional matters, in the same format, to this part of the OM.</td></tr>
<tr><td colspan="3">Comments falling outside the scope of the project: suggested different format for disclosure, and certain additional disclosures</td></tr>
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<tr><td>142.</td><td>One commenter believes the use of diagrams and tables, such as those that are already required for the “Use of Available Funds” disclosure, is more digestible for investors than dense descriptive disclosure. Given the length and detailed nature of the prescribed form of OM, the commenter suggests mandating that issuers include an easily understandable organizational chart of their structure, showing the flow of fees and other funds upfront. It is particularly important for issuers to be transparent about the amount, frequency and source of all fees that are payable in connection with the investment and the impact the payment of such fees will have on the net returns payable to the investors. Currently, fees paid to various services providers may be described throughout the document and thus it is difficult for investors to aggregate these costs in order to compare the total fees to other products or market norms.<br><br>The commenter also urges the CSA to continue to consider emphasizing clear and prominent fee and conflict disclosures upfront on the face pages of the OM.</td><td>A generalized change in the format of disclosure for an OM, and some of the other changes mentioned, are outside the scope of the project. However, we wish to highlight certain in-force requirements or aspects of the Amendments that are relevant to portions of this comment.<br><br>The Amendments provide for certain costs or financial considerations to be highlighted in summary form at the beginning of the OM, such as compensation paid to sellers or finders, working capital deficiency, payments to related parties, dividends or distributions that exceeded cash flow from operations and fees associated with redemption or retraction.<br><br>We also note that with respect to disclosure of fees and costs, an OM must meet the OM Standard of Disclosure.</td></tr>
<tr><td colspan="3">Comments falling outside the scope of the project: allow issuers raising smaller amount to use reviewed financial statements rather than audited financial statements</td></tr>
<tr><td>143.</td><td>One commenter suggested that requiring a review of an issuer’s financial statements, rather than an audit, for offerings at or below a set amount such as $2 million and restricted to certain types of issuers such as CIVs, could help provide a bridged approach to OM use for issuers engaged in crowdfunding. This approach could allow available exemptions to work in tandem more efficiently, and provide a possible path for issuers to the public markets or other exit or growth opportunities.</td><td>We acknowledge the comments.</td></tr>
<tr><td colspan="3">Comments falling outside the scope of the project: revising Form 45-106F2 Items 1.1 and 1.2 regarding funds from the offering and the use of those funds</td></tr>
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| 144. | One commenter observed that the 2020 Proposed Amendments do not focus on the current "Use of Available Funds" chart in Form 45-106F2. However, the commenter believes this chart must be improved in order to help investors understand the projected gross return of an investment and that, in some cases, the aggregate fees and costs associated with an investment could represent a large percentage of the aggregate capital raised, therefore substantially reducing the projected net return of such investment. Investors could then determine whether it will be difficult to earn a return on capital, or even a return of original capital, in the early years of an investment. This could also help with potential confusion investors face from their client statements showing the investment at cost, which usually does not represent the redemption price. The chart should require an issuer to state the expected use of funds in both dollar terms and as a percentage of the amount raised. Such disclosure would also better represent the "J curve" of certain types of investments such as private equity funds (where certain vehicles tend to deliver negative returns in the early years). | Reformulating Form 45-106F2 Items 1.1 and 1.2 is outside the scope of the project. However, we would like to highlight certain aspects of in-force Form 45-106F2 or of the Amendments that are relevant to these comments.<br><br>Form 45-106F2 Item 1.1 (use of available funds) requires that the costs of the offering be disclosed.<br><br>With respect to ongoing costs and fees, as noted above, an OM must meet the OM Standard of Disclosure.<br><br>The Amendments in section 2 of Schedule 2 of Form 45-106F2 also specifically require for CIVs disclosure of remuneration paid to outside parties involved in managing the CIV's investments.<br><br>Overall, we understand the comment to advocate for a projection of the investment's return over time. We are concerned that being required to do this would be unduly onerous for issuers, and therefore have not proposed such a requirement. |
| *Comments falling outside of the scope of the project: impact on other exemptions* | | |
| 145. | One commenter is concerned that this level of comprehensive disclosure under the OM Exemption is a signal by regulators of the level of disclosure they will expect in compliance reviews in offering materials by issuers under all prospectus exemptions. This could reduce the number of smaller issuers using OMs, whether under the OM Exemption or other exemptions, which would ultimately result in investors receiving less disclosure. | The Amendments do not impact any other prospectus exemptions and do not change the level of disclosure expected to be provided in OMs used in conjunction with other prospectus exemptions. |