

ALBERTA SECURITIES COMMISSION

BLANKET ORDER 45-520

Citation: Re Facilitating Access to Capital by Community Economic Development Corporations, 2018 ABASC 180

Date: 20181121

Definitions

1. Unless otherwise defined in this Blanket Order, terms defined in the *Securities Act* (Alberta) (the **Act**), National Instrument 14-101 *Definitions*, National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**) or National Instrument 52-107 *Acceptable Auditing Principles and Auditing Standards* (**NI 52-107**) have the same meaning in this Blanket Order.
2. In this Blanket Order:
 - "**CEDC**" means a corporation or cooperative that is registered under Division 2 of the IDAE Act;
 - "**CEDC Share**" means a share of a CEDC that is eligible for a tax credit under the IDAE Act;
 - "**Handbook**" means the CPA Canada Handbook, as amended from time to time;
 - "**IDAE Act**" means the *Investing in a Diversified Alberta Economy Act*;
 - "**Instruction**" means an instruction in Form 45-106F2 *Offering Memorandum for Non-Qualifying Issuers*;
 - "**Issuer Group**" means a CEDC together with each other issuer that is an associate of or affiliated with the CEDC but does not include another CEDC that is an associate of or affiliated with the CEDC solely by means of its investment in the same eligible community business;
 - "**Offering Memorandum Exemption**" means the exemption from the prospectus requirement under Alberta securities laws provided by section 2.9 of NI 45-106;
 - "**Modified OM Regulatory Accounting Principles**" means Part II of the Handbook applied to a CEDC as if it were a private enterprise provided that the financial statements consolidate any subsidiaries of the CEDC and account for any significantly influenced investees and joint ventures using the equity method;
 - "**Review**" means a review in accordance with the standard for engagements to review historical financial statements, as specified in the Handbook.

Background

3. The Government of Alberta has created the CEDC program, which is intended to encourage capital raising by community based issuers and provide certain tax credits for investors.
4. To coordinate with the CEDC program and the IDAE Act, and to further facilitate access to capital by CEDCs while providing appropriate investor protection, the Commission is providing exemptions from certain requirements of Alberta securities laws.

Order: Financial Statement Relief

5. The Commission, considering that it would not be prejudicial to the public interest to do so, orders under section 213 of the Act that a CEDC that conducts a distribution under the Offering Memorandum Exemption and complies with the conditions in section 6 of this Order is exempt from the following:

Requirements for an audit

- (a) if the financial statements of the CEDC have not been audited, or the financial information contained in the offering memorandum has not been audited or derived from audited financial statements, the requirements in subsection 2.9(17.10) of NI 45-106 and each of Instruction B9, C5, D3(b) and D3(c), as applicable, for an audit of financial statements, or for financial information to be audited or derived from audited financial statements, provided that all of the following are satisfied:
 - (i) the relevant financial statements presented, or from which financial information has been derived, for the most recently completed financial year have been subject to a Review;
 - (ii) the Review report does not include a modified conclusion and:
 - (A) identifies the financial periods that were subject to the Review;
 - (B) is in the form specified by the standard for a Review; and
 - (C) refers to IFRS or the Modified OM Regulatory Accounting Principles as the applicable financial reporting framework;

Requirements to update with an audit

- (b) Instruction B12 if, in the case of a distribution ongoing at the relevant time, each of the following are satisfied:
 - (i) the CEDC's financial statements for its most recently completed financial year have not been audited;
 - (ii) the CEDC amends its offering memorandum to include financial statements that have been subject to a Review, for its most recently completed financial year, as soon as the CEDC has approved the financial statements but in any event no later than the 120th day following its financial year end;

- (c) Instruction C6 if, in the case of a distribution ongoing at the relevant time:
 - (i) the financial statements for a business referred to in Instruction C1 for the business's most recently completed financial year that ended before the acquisition date have not been audited; and
 - (ii) the CEDC amends its offering memorandum to include financial statements that have been subject to a Review, for that business's most recently completed financial year that ended before the acquisition date, when they are available but in any event no later than the date 120 days following the year end;

Requirements to disclose an audit and no reservation of opinion

- (d) subsection 2.9(17.10) of NI 45-106 and Instructions D3(c)(i) and D3(c)(ii), provided that the issuer does not provide the Review report to purchasers and does both of the following:
 - (i) provides disclosure to accompany the financial statements that the financial information presented has not been audited and is not derived from audited financial statements;
 - (ii) in respect of financial information, other than financial statements, provides disclosure proximate to that financial information that identifies the financial statements from which the financial information has been derived and indicates that neither the financial information nor the financial statements from which the financial information has been derived have been audited;
- (e) the requirements in Instruction D3 respecting an audit provided that each reference to:
 - (i) “has been audited” is read as “has been subject to a Review”,
 - (ii) “audited financial statements” is read as “financial statements subject to a Review”,
 - (iii) “audit opinion” is read as “practitioner’s conclusion”, and
 - (iv) “unmodified opinion” is read as “unmodified conclusion”;

Requirements to use GAAP for publicly accountable enterprises or IFRS

- (f) the financial statements specified by Instructions B4(a) and B5(a) provided that the CEDC provides the financial statements required by the Modified OM Regulatory Accounting Principles;
- (g) Instruction B4.1;

(h) paragraphs 3.2(1)(a), 3.2(1)(b) and 3.11(f)(ii) of NI 52-107, paragraph 2.9(17.8)(c) of NI 45-106 and the requirement in Instruction B1 to prepare financial statements and summarized financial information in accordance with Canadian GAAP applicable to publicly accountable enterprises, provided that the CEDC complies with all of the following:

(i) the financial statements and all summarized financial information presented that have not been prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises are prepared in accordance with the Modified OM Regulatory Accounting Principles,

(ii) the financial statements satisfy both of the following:

(A) they state:

These financial statements are prepared in accordance with the Modified OM Regulatory Accounting Principles specified in Alberta Securities Commission Blanket Order 45-520 *Facilitating Access to Capital by Community Economic Development Corporations*;

(B) they describe the accounting policies used to prepare the financial statements.

6. A CEDC relying on any of the exemptions in section 5 of this Blanket Order must satisfy all of the following conditions:

(a) the aggregate maximum amount raised by the Issuer Group in all distributions of CEDC Shares in reliance on any prospectus exemption must not exceed \$5 000 000;

(b) the aggregate cumulative acquisition cost of all securities acquired by a purchaser who is an individual in the preceding 12 months under the Offering Memorandum Exemption, as modified by this Blanket Order, must not, except in the case of a purchaser that is an accredited investor or a person or company referred to in paragraphs 2.5(1)(a) to (i) [*Family, friends and business associates*] of NI 45-106, exceed the following amounts:

(i) in the case of a purchaser that is not an eligible investor, \$5 000;

(ii) in the case of a purchaser that is an eligible investor, \$15 000;

(iii) in the case of purchaser that is an eligible investor and that has received advice from a registered portfolio manager, investment dealer or exempt market dealer that the investment is suitable, \$50 000;

(c) if at the time of the distribution the CEDC has identified a person or company that a reasonable person would believe that the likelihood is high that the CEDC will loan or invest at least 50% of the aggregate gross proceeds of all distributions by

the Issuer Group, the offering memorandum contains the disclosure in respect of such other person or company that would be required by Items 2 to 5, Items 7-8 and Item 12 of Form 45-106F2 *Offering Memorandum for Non-Qualifying Issuers* if such other person or company were conducting a distribution under the Offering Memorandum Exemption, as modified by this Blanket Order:

the CEDC states in bold font on the face page of each offering memorandum used in a distribution made under the Offering Memorandum Exemption, as modified by this Blanket Order:

This is a risky investment.

This offering memorandum was prepared in accordance with ASC Blanket Order 45-520 *Facilitating Access to Capital by Community Economic Development Corporations* (the Blanket Order). The financial statements and financial information in this offering memorandum are not audited. [Delete prior sentence if financial statements are audited.] They have been prepared in accordance with the Modified OM Regulatory Accounting Principles, as defined in the Blanket Order, and are not comparable to financial statements prepared using Canadian generally accepted accounting principles for publicly accountable enterprises. [Instruction: Delete last sentence if statements are prepared using Canadian GAAP for publicly accountable enterprises.]

Particular conditions apply to this offering. When relying on those particular conditions, the Issuer Group (as defined in the Blanket Order) cannot have raised more than \$5,000,000.

You may choose to invest less, but when relying on those particular conditions, you can not cumulatively invest more than \$5,000 worth of securities in this issuer and all other issuers relying on this Blanket Order, in a 12-month period.

- (d) at or before the time at which the purchaser enters into an agreement to purchase securities of the CEDC, the CEDC obtains from the purchaser a signed risk acknowledgement in the form prescribed in the Appendix to this Blanket Order;
- (e) in each Schedule 1 to Form 45-106F1 *Report of Exempt Distribution* filed in respect of a distribution made in reliance upon the Offering Memorandum Exemption, as modified by this Blanket Order, the filer reports that it has relied on the “Offering Memorandum Exemption as modified by Blanket Order 45-520” under the “Other” column of “Details of exemption relied upon”, for each reliance on the Offering Memorandum Exemption, as modified by this Blanket Order.

Order: Risk Acknowledgement

7. The Commission, considering that it would not be prejudicial to the public interest, orders under section 213 of the Act that a CEDC that conducts an offering that complies with the Offering Memorandum Exemption, other than as specifically excepted by this Blanket Order, and obtains a risk acknowledgement from a purchaser in the form prescribed by the Appendix to this Blanket Order, is exempt from the requirement of subparagraph 2.9(2.1)(c)(ii) in NI 45-106 to obtain a risk acknowledgement in Form 45-106F4 *Risk Acknowledgement*.

This Blanket Order ceases to have effect on 23 November 2020.

Approved by resolution at the Meeting of the Members of the Alberta Securities Commission on November 21, 2018

Appendix
Risk Acknowledgement
under Alberta Securities Commission Blanket Order 45-520 *Facilitating Access to Capital*
by *Community Economic Development Corporations*

Name and Contact Information for Issuer: _____

Name of Salesperson: _____ **Type of Security:** _____

Acknowledgements	Yes	No
<p>Risk of loss – You are buying “securities” (e.g., share, units, notes or debentures) of a small business. A high percentage of small businesses do not survive. You should consider how much of your total assets, your annual income and your other investments is represented by this investment. Consider whether you need this money for your retirement or other purposes.</p> <p>Do you understand that this is a risky investment and that you could lose a significant portion or even all of the money you invest?</p>		
<p>Tax Credit - Any tax credit you may receive may be less than the decrease in value of your investment. Any tax credit is a tax credit against provincial tax otherwise payable and if you do not have sufficient tax to offset the credit, your tax credit may not be useable. There is a risk that the issuer will cease to be eligible for a tax credit.</p> <p>Do you understand that the tax credit may not make up for any losses, the tax credit may not be useable if you do not have sufficient tax to pay and that the issuer may lose its eligibility for the tax credit?</p>		
<p>Investment returns - If the securities you are buying are supposed to provide a dividend or other return, you should consider whether the business has a reasonable prospect of making the income necessary to make those payments.</p> <p>Do you understand the risk that you may not receive any income such as dividends on this investment?</p>		
<p>Resale - The securities you are buying cannot be legally resold except in very limited circumstances. Even if you are legally able to sell them there is no established market in which to resell them.</p> <p>Do you understand that even if the value of your investment increases, you may be unable to sell your securities?</p>		
<p>Liquidity - You should consider your “exit strategy” before investing. What is the issuer’s plan to allow you to realize any value in your investment (for example, through an initial public offering or an acquisition of the issuer)? You should consider the issuer’s timeline for achieving that goal compared to your needs.</p> <p>Do you understand that even if the issuer is eventually successful, it may be many years before you are able to realize on your investment?</p>		
<p>Redemption risk - Unless specified by the terms of the security, the issuer selling these securities to you is not typically obligated to buy them back from you. Even if you have a right of redemption it will be subject to various conditions and limits.</p> <p>Do you understand that even if you have a right of redemption, it may not be possible to redeem your investment?</p>		

Acknowledgements	Yes	No
<p>Indirect investment – If you invest in a business that intends to invest in another business, you will not typically have a direct investment in the underlying business and will not typically have rights to vote as a shareholder of the underlying business or to participate directly in the distribution of the earnings or assets of that underlying business.</p> <p>Do you understand that with an indirect investment, you are not a shareholder of any underlying business?</p>		
<p>Less Information Provided- The issuer is selling these securities under an exemption from the prospectus requirement. The offering memorandum you should have received likely does not contain the same disclosure that would be required to be provided to you by a prospectus.</p> <p>After conducting this offering, the issuer will not be a reporting issuer (public company) and will not be required to provide the ongoing disclosure expected of a reporting issuer. Alberta securities laws require only that you be provided annual financial statements and information regarding how the issuer used the proceeds.</p> <p>Do you understand that you will not receive the initial or ongoing disclosure that you could expect if the issuer was filing a prospectus and becoming a reporting issuer (public company)?</p>		
<p>Financial Statements – The issuer selling you these securities may have relied upon a regulatory framework which allows it to prepare its financial statements in accordance with private company generally accepted accounting principles and to have its financial statements reviewed, rather than audited, by a public accountant. Financial statements prepared in this manner lack the assurance that they are reasonably free of a material misstatement and contain less detail than those of a typical reporting issuer (public company).</p> <p>Do you understand that the financial statements of the issuer may have been prepared with accounting principles that do not provide you with all the details and assurance of financial statements of a typical reporting issuer (public company)?</p>		
<p>No approval – No government or securities regulatory authority has reviewed, evaluated or endorsed the offering memorandum or the merits of these securities or the truthfulness or adequacy of the disclosure in the offering memorandum.</p> <p>Do you understand that even if this investment is eligible for a tax credit, the merits of this investment have not been reviewed or approved by the Alberta Securities Commission or any government body?</p>		
<p>Registered dealer – To determine whether a salesperson is registered prior to making an investment, you can consult the website, www.checkfirst.ca. If the salesperson is not registered, no government or securities regulatory authority has assessed the qualifications, integrity or financial circumstances of the salesperson or the existence of any controls regarding the handling of your assets and you will not have the protections associated with purchasing securities from a registered dealer.</p> <p>Do you understand the risks associated with purchasing securities from a salesperson who is not registered?</p>		

Date

Signature of Purchaser

Print name of Purchaser

*Sign two copies of this document. Keep one copy, including Schedules 1 and 2, for your records.
****You have 2 business days to cancel your purchase. To cancel your purchase send a notice to the issuer before midnight on the 2nd business day after you sign the agreement to buy the securities.**

Schedule 1

Classification of Investors Under the Offering Memorandum Exemption as Modified by Blanket Order 45-520

Instructions: This schedule must be completed, together with the Risk Acknowledgement Form and Schedule 2, by individuals purchasing securities under the exemption (the **offering memorandum exemption**) in subsection 2.9(2.1) of National Instrument 45-106 *Prospectus Exemptions (NI 45-106)* as modified by Alberta Securities Commission Blanket Order 45-520 *Facilitating Access to Capital By Community Economic Development Corporations (Blanket Order 45-520)* in Alberta.

How you qualify to buy securities under the offering memorandum exemption, as modified by Blanket Order 45-520
Initial the statement under A, B, C or D containing the criteria that applies to you. (You may initial more than one statement.) If you initial a statement under B or C, you are not required to complete A.

A. You are an eligible investor because:		Your initials
Eligible Investor	Your net income before taxes was more than \$75,000 in each of the 2 most recent calendar years, and you expect it to be more than \$75,000 in this calendar year. (You can find your net income before taxes on your personal income tax return.)	
	Your net income before taxes combined with your spouse's was more than \$125,000 in each of the 2 most recent calendar years, and you expect your combined net income to be more than \$125,000 in this calendar year. (You can find your net income before taxes on your personal income tax return.)	
	Either alone or with your spouse, you have net assets worth more than \$400,000. (Your net assets are your total assets, including real estate, minus your total debt including any mortgage on your property.)	

B. You are an eligible investor, as a person described in section 2.3 [<i>Accredited investor</i>] of NI 45-106, because:		Your initials
Accredited Investor	Your net income before taxes was more than \$200,000 in each of the 2 most recent calendar years, and you expect it to be more than \$200,000 in this calendar year. (You can find your net income before taxes on your personal income tax return.)	

	Your net income before taxes combined with your spouse’s was more than \$300,000 in each of the 2 most recent calendar years, and you expect your combined net income before taxes to be more than \$300,000 in the current calendar year.	
	Either alone or with your spouse, you own more than \$1 million in cash and securities, after subtracting any debt related to the cash and securities.	
	Either alone or with your spouse, you have net assets worth more than \$5 million. (Your net assets are your total assets (including real estate) minus your total debt.)	

C. You are an eligible investor, as a person described in section 2.5 [Family, friends and business associates] of NI 45-106, because:		Your initials
Family, Friends and Business Associates	<p>You are:</p> <p style="margin-left: 20px;">1) <i>[check all applicable boxes]</i></p> <p style="margin-left: 20px;"><input type="checkbox"/> a director of the issuer or an affiliate of the issuer</p> <p style="margin-left: 20px;"><input type="checkbox"/> an executive officer of the issuer or an affiliate of the issuer</p> <p style="margin-left: 20px;"><input type="checkbox"/> a control person of the issuer or an affiliate of the issuer</p> <p style="margin-left: 20px;"><input type="checkbox"/> a founder of the issuer</p> <p style="margin-left: 20px;">OR</p> <p style="margin-left: 20px;">2) <i>[check all applicable boxes]</i></p> <p style="margin-left: 20px;"><input type="checkbox"/> a person of which a majority of the voting securities are beneficially owned by, or a majority of the directors are, (i) individuals listed in (1) above and/or (ii) family members, close personal friends or close business associates of individuals listed in (1) above</p> <p style="margin-left: 20px;"><input type="checkbox"/> a trust or estate of which all of the beneficiaries or a majority of the trustees or executors are (i) individuals listed in (1) above and/or (ii) family members, close personal friends or close business associates of individuals listed in (1) above</p>	
	<p>You are a family member of _____ <i>[Instruction: Insert the name of the person who is your relative either directly or through his or her spouse],</i> who holds the following position at the issuer or an affiliate of the issuer: _____.</p> <p>You are the _____ of that person or that person’s spouse. <i>[Instruction: To qualify as a family member, you must be (a) the spouse of the person listed above or (b) the parent, grandparent, brother, sister, child or grandchild of that person or that person’s spouse.]</i></p>	

	<p>You are a close personal friend of _____ <i>[Instruction: Insert the name of your close personal friend]</i>, who holds the following position at the issuer or an affiliate of the issuer: _____.</p> <p>You have known that person for _____ years.</p>	
	<p>You are a close business associate of _____ <i>[Instruction: Insert the name of your close business associate]</i>, who holds the following position at the issuer or an affiliate of the issuer: _____.</p> <p>You have known that person for _____ years.</p>	

D. You are not an eligible investor.		Your initials
Not an Eligible Investor	<p>You acknowledge that you are not an eligible investor.</p>	

Schedule 2

Investment Limits for Investors Under the Offering Memorandum Exemption as Modified by Blanket Order 45-520

Instructions: This schedule must be completed, together with the Risk Acknowledgement Form and Schedule 1, by individuals purchasing securities under the exemption (the **offering memorandum exemption**) in subsection 2.9(2.1) of National Instrument 45-106 *Prospectus Exemptions (NI 45-106)* as modified by Alberta Securities Commission Blanket Order 45-520 *Facilitating Access to Capital By Community Economic Development Corporations (Blanket Order 45-520)* in Alberta.

SECTION 1 TO BE COMPLETED BY THE PURCHASER
1. Investment limits you are subject to when purchasing securities under the offering memorandum exemption as modified by Blanket Order 45-520
You may be subject to investment limits that apply to all securities acquired in a 12 month period under the offering memorandum exemption, as modified by Blanket Order 45-520, depending on the criteria under which you qualify as identified in Schedule 1.
Initial the statement that applies to you.

A. You are an eligible investor (other than as referenced in Part B or C of this form).		Your initials
Eligible Investor	As an eligible investor that is an individual, you cannot invest more than \$15,000 in any 12 month period under the offering memorandum exemption, as modified by Blanket Order 45-520, unless you have received advice that your investment is suitable from a portfolio manager, investment dealer or exempt market dealer, as identified in section 2 of this schedule, in which case you cannot invest more than \$50,000 in any 12 month period. Complete and initial one of the following statements, as applicable:	
	You confirm that, after taking into account your investment today of \$_____ in this issuer, you have not invested more than \$15,000 in all investments in the previous 12 months under the offering memorandum exemption, as modified by Blanket Order 45-520.	
	You confirm that you received advice from a portfolio manager, investment dealer or exempt market dealer, as identified in section 2 of this schedule, that the investment you are making is suitable.	
	You confirm that, after taking into account your investment today of \$_____ in this issuer, you have not invested more than \$50,000 in all investments in the previous 12 months under the offering memorandum exemption, as modified by Blanket Order 45-520.	

B. You are an eligible investor, as a person described in section 2.3 [<i>Accredited investor</i>] of NI 45-106).		Your initials
Accredited Investor	You acknowledge that, by qualifying as an eligible investor as a person described in section 2.3 [<i>Accredited investor</i>] of NI 45-106, you are not subject to investment limits.	

C. You are an eligible investor, as a person described in section 2.5 [<i>Family, friends and business associates</i>] of NI 45-106.		Your initials
Family, Friends and Business Associates	You acknowledge that, by qualifying as an eligible investor as a person described in section 2.5 [<i>Family, friends and business associates</i>] of NI 45-106, you are not subject to investment limits.	

D. You are not an “eligible investor” as referenced in Part A, B or C of this form.		Your initials
Not an Eligible Investor	<p>If you are not an eligible investor, you cannot invest more than \$5,000 in any 12 month period under the offering memorandum exemption, as modified by Blanket Order 45-520.</p> <p>You confirm that, after taking into account your investment today of \$_____ in this issuer, you have not invested more than \$5,000 in all investments in the previous 12 months under the offering memorandum exemption, as modified by Blanket Order 45-520.</p>	

SECTION 2 TO BE COMPLETED BY THE REGISTRANT	
2. Registrant information	
<i>[Instruction: this section must only be completed if an investor has received advice from a portfolio manager, investment dealer or exempt market dealer concerning his or her investment.]</i>	
First and last name of registrant (please print):	
Registered as: <i>[Instruction: indicate whether registered as a dealing representative or advising representative]</i>	
Telephone:	Email:
Name of firm: <i>[Instruction: indicate whether registered as an exempt market dealer, investment dealer or portfolio manager.]</i>	
Date:	