

CSA Multilateral Notice and Request for Comment Proposed Order 45-539 *Small Business Financing*

March 25, 2021

Introduction

The Alberta Securities Commission (ASC) and the Financial and Consumer Affairs Authority of Saskatchewan (FCAA) (together, **staff** or **we**) are publishing for comment a proposed new prospectus exemption entitled *Small Business Financing* (the **Proposed Exemption**) which, if adopted, is intended to be available to streamline the financing process for small businesses in Alberta and Saskatchewan raising up to \$5,000,000 from investors in those provinces.

The comment period is open until **May 7, 2021** for comments to the Proposed Exemption. The Proposed Exemption is summarized below and is attached as Annex A to this Notice. The comment period relating to the proposed amendments to National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* is open until **May 24, 2021**.

Substance and Purpose

We understand that start-up and small businesses are an important part of our provincial economies, serving as key contributors to employment, quality of life and income within communities. The Proposed Exemption is designed to facilitate access to capital by these start-ups and other small businesses in Alberta and Saskatchewan, while still providing appropriate investor protection. It provides an exemption from the prospectus requirement, allowing a business in Alberta or Saskatchewan to raise up to \$5,000,000 from the general public in Alberta or Saskatchewan, using a simple, streamlined offering document with tiered offering and investment limits depending on whether specified financial statements are provided to investors.

The Proposed Exemption has been designed to respond to the challenges faced by start-ups and other small businesses when trying to address modest financing needs. It is particularly intended to address the financing challenges of small local businesses that, while they may generate returns for investors and provide jobs, do not currently have the profile or growth prospects to attract the interest of venture capitalists or public capital markets. In Alberta, it is also intended to respond to and codify discretionary exemptive relief that has been sought by Alberta cooperatives and corporations in small towns and rural communities to help finance local projects.

Background

Absent an available prospectus exemption, securities law requires an issuer distributing securities to file and obtain a receipt for a prospectus. A prospectus provides comprehensive disclosure, allowing investors to make an informed investing decision. Securities law provides various exemptions from the prospectus requirement in circumstances where alternative conditions exist that suggest that investors do not require the protections of a prospectus.

We have previously explored ways to facilitate financing by small business. The offering memorandum exemption, now found in section 2.9 of National Instrument 45-106 *Prospectus Exemptions* (the **OM Exemption**) was intended to serve as a small business financing tool for smaller issuers moving beyond seed capital financing from family and close friends; however, it has been used for real estate development and mortgage investment entities and has had limited use by the type of early stage businesses for which it was intended.

We understand that for many small businesses that are raising only modest amounts of capital, the cost of preparing the financial statements required under the OM Exemption can be very significant, sometimes prohibitively expensive, relative to the amount of money being raised. We understand that this is because the annual financial statements required under the OM Exemption are required to be audited and prepared in accordance with Canadian generally accepted accounting principles (**GAAP**) applicable to publicly accountable enterprises, which are not typically the accounting principles used to prepare financial statements for small businesses that are not reporting issuers.

We have also endeavoured to address start-up and small business financing through the start-up crowdfunding regime but understand that not all issuers wish to conduct online financings and that, in some cases, the financing needs exceed the limits contemplated under the start-up crowdfunding regime.

The Proposed Exemption is intended to provide a prospectus exemption to better address the challenges faced by small businesses, while still addressing concerns relating to investor protection. It offers two tiers of offering and investment limits depending on the financial information provided to investors. Our goal is that this will provide a useful tool for small business that will allow them to graduate to higher financing amounts as they grow their business and have the means to provide additional financial information to investors.

Summary of the Proposed Exemption

The Proposed Exemption would provide Alberta or Saskatchewan-based start-ups and other small businesses with a coordinated and two-tiered prospectus exemption with differing offering and investment limits based on the amount of financial disclosure that is provided to investors. The Proposed Exemption would only be available to Alberta and Saskatchewan small businesses raising money from investors in those provinces. In order to provide investors with information on which to make an informed investment decision, issuers would be required to provide investors with a simple, streamlined offering document containing prescribed information as set out in Form 45-539F1 *Small Business Offering Document*. To assist issuers with preparing the

offering document, we have provided an optional question and answer format.

Provided that the "issuer group"¹ raises no more than \$1,500,000 under the Proposed Exemption in a 12 month period (not including investments by investors who are qualified to invest under one of the other prospectus exemptions contemplated in the Proposed Exemption)² no financial statements are required to be provided with the offering document.

If the issuer group were to raise in excess of \$1,500,000 under the Proposed Exemption in a 12 month period from investors who would not qualify to invest under another specified exemption, including under an ongoing offering, the issuer would be required to provide investors with an offering document that contains the specified financial statements, before accepting the subscription. The specified financial statements are permitted to be prepared in accordance with a modified regulatory standard that is based on Canadian GAAP applicable to private enterprises (but with subsidiaries being consolidated and any significantly influenced investees and joint ventures being accounted for using the equity method). Annual financial statements would be required to be included but would not be required to be audited if they have been subject to a review engagement by a certified public accountant. If investors are provided with the specified financial statements, both higher offering limits and higher investment limits are permitted.

The Proposed Exemption provides tiered offering and investment limits as follows:

- 1) If the specified financial statements are **not** provided,
 - a) the maximum that an issuer group could raise from investors who would not qualify to invest under another specified exemption in a 12 month period under the Proposed Exemption is \$1,500,000, subject to a lifetime limit of \$5,000,000;
 - b) the maximum that an investor (who would not qualify to invest under another specified exemption) could invest in the issuer group in a 12 month period is
 - o \$2,500, or
 - o if the investor is a minimum income investor or "MII,"³ \$10,000;
- 2) If the specified financial statements are provided,
 - a) the issuer group could raise up to the aggregate lifetime maximum of \$5,000,000 under the Proposed Exemption from investors who would not qualify to invest under another specified exemption;

¹ The issuer group means, in respect of an issuer, any of the issuer, an affiliate of the issuer, an issuer that is engaged in a common enterprise with the issuer or with an affiliate of the issuer, and an issuer whose business is founded or organized by a person or company who founded or organized the issuer.

² Investments by persons or companies who qualify to invest under the accredited investor exemption, the close family, friend and business associate exemption, the foreign investor exemption, [and the self-certified investor exemption] are not included in calculating the \$1,500,000 or \$5,000,000 offering limits.

³ A minimum income investor or MII is defined in the Proposed Exemption and refers, generally, to those having had for the last two years annual net income in excess of \$75,000 or \$125,000 with their spouse and, in the case of non-individuals, generally to persons or companies that are controlled by a MII.

- b) the maximum that an investor (who would not qualify to invest under another specified exemption) could invest in the issuer group in a 12 month period is
- \$5,000, or
 - if the investor is a "MII," \$20,000.

The Proposed Exemption would not create any ongoing financial statement requirements for issuers that raise no more than \$1,500,000 from investors who would not qualify to invest under another specified exemption under the Proposed Exemption in a 12 month period. However, in the absence of a voting trust or other agreement, issuers that rely on the Proposed Exemption may be subject to corporate law or other requirements to prepare and send audited annual financial statements to their shareholders on an annual basis.

If the issuer group were to raise more than \$1,500,000 from investors who would not qualify to invest under another specified exemption under the Proposed Exemption in a 12 month period, the issuer would be required to deliver an undertaking as specified by Form 45-539F3 *Small Business Undertaking* to deliver annually their annual financial statements and a Form 45-106F16 *Notice of Use of Proceeds* and make them reasonably available to each holder of a security distributed under the Proposed Exemption. The Proposed Exemption contemplates that those annual financial statements need not be audited if subject to a review engagement and could be prepared using the modified regulatory accounting principles. However, as noted above, in the absence of a voting trust or other agreement, issuers that rely on the Proposed Exemption may be subject to corporate law or other requirements to prepare and send audited annual financial statements to their shareholders on an annual basis.

For issuers that are required to undertake to deliver financial statements on an annual recurring basis, we propose that those ongoing financial statements would be submitted electronically through SEDAR and made reasonably available to current security holders but would not be made publicly available on SEDAR. We would consider financial statements to be reasonably available to security holders if delivered in paper or electronic format or if purchasers are notified when they posted on the issuer's website.

The following conditions in the Proposed Exemption are designed to off-set risks to investors:

- requiring each investor to complete an enhanced risk acknowledgement form;
- imposing an aggregate lifetime limit of \$5,000,000 on the amount that an issuer group can raise under the Proposed Exemption; and
- capping the amount that can be invested and potentially lost with differing limits depending on an investor's income level and whether or not specified financial statements are provided.

Other key elements of the Proposed Exemption include the following:

- the issuer's head office must be in Alberta or Saskatchewan;

- the issuer must not be a reporting issuer or an investment fund;⁴
- it does not permit continuous distributions, i.e., offerings must be completed within 120 days and if the minimum offering is not raised, funds must be returned to investors;
- securities distributed are restricted to one or more of the following securities of the issuer:
 - common shares;
 - preference shares;
 - debt securities, other than securitized products or structured finance products;
 - units of a limited partnership;
 - membership shares or investment shares issued by a cooperative organized under the *Cooperatives Act* (Alberta); or
 - securities convertible or exchangeable into any of the above, such as warrants or convertible debentures.

Although the exemption is not available to investment funds, we anticipate that it may be used by some businesses that act as a vehicle for collective investment, such as

- those operating similar to venture capital funds,⁵ actively engaging in the management of the businesses in which they invest or,
- those that, similar to some opportunity development cooperatives in Alberta, issue a separate class or series of shares in respect of each underlying investment, and do not commingle the funds in respect of the various underlying investments.

The offering document would not be required to be provided in advance to the ASC or the FCAA but would be required to be filed electronically through SEDAR within 10 days following the distribution, e.g., following the closing, together with a Form 45-106F1 *Report of Exempt Distribution* reporting on the distribution. Although not required to be provided to the ASC or FCAA, the issuer would also be required to obtain from each investor a completed risk acknowledgement in Form 45-539F2 *Small Business Risk Acknowledgement* and to retain that document. To ensure that each investor reads the risk acknowledgement form and it is not completed in advance by the issuer or salesperson, the risk acknowledgement must be fully completed by the investor and the issuer must not have reason to believe it is untrue.

The offering document would constitute an offering memorandum under securities legislation, providing investors with additional rights of action in the event of a misrepresentation in the offering document.

Securities issued under the Proposed Exemption would also be subject to the standard resale restrictions, which would continue indefinitely until the issuer becomes a reporting issuer.

⁴ An investment fund is defined in securities legislation as a mutual fund or a non-redeemable investment fund, which terms are also defined in the *Act*. Generally, an investment fund is an issuer whose primary purpose is to invest money provided by its security holders in one or more other persons or companies. Refer to Part 1 in the Companion Policies to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and National Instrument 81-106 *Investment Fund Continuous Disclosure*, which provide useful guidance on the characteristics of an investment fund.

⁵ See the discussion of venture capital and private equity in Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

Accordingly, until that time, the securities could only be resold under another prospectus exemption or under a prospectus.

The Proposed Exemption would provide only a prospectus exemption. It would not provide an exemption from the dealer registration requirement or any other provision of securities legislation. Issuers that are not “in the business” of trading in respect of securities are not required to be registered as dealers to sell their securities. The companion policy to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* provides guidance on what it means to be “in the business” of trading securities.⁶

Concurrently with the publication of this Notice, the ASC has published for comment Blanket Order 31-536 *Alberta Small Business Finder’s Exemption*, updating and replacing ASC Blanket Order 31-505 *Registration Exemption for Trades in Connection Certain Prospectus-Exempt Distributions*. We encourage market participants in Alberta to review that proposal as well. That exemption is not being proposed in Saskatchewan.

The Proposed Exemption would only provide a proposed prospectus exemption from Alberta and Saskatchewan securities law and not the laws of other jurisdictions. It could not be relied on for the distribution of securities into other jurisdictions.

Consequential Amendments

If the Proposed Exemption is adopted, we propose to amend National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* to reflect the filing requirements under the Proposed Exemption. Annex B to this notice contain the proposed consequential amendments to that instrument.

In addition, if the Proposed Exemption is adopted, the ASC proposes to repeal ASC Rule 45-517 *Prospectus Exemption for Start-Up Businesses*. Annex C to this notice contains the proposed repeal of that instrument.

Request for Comments

We welcome your comments on all aspects of the Proposed Exemption. In particular, we seek feedback on the following questions:

1. To what extent do you anticipate that this prospectus exemption would be relied on by Alberta and Saskatchewan businesses? Do you think that the exemption will be relied on more for financings
 - a. above the proposed threshold of \$1,500,000 per 12 months at which financial statements are triggered?
 - b. or below the proposed threshold?
2. In setting the investment limits, we considered both the level of disclosure being provided to investors and the investor’s ability to withstand loss. Investors investing as minimum income

⁶ See s. 1.1 under the heading “Business trigger examples (a) – Securities issuers”.

investors or "MIIs" would not be accredited investors and can be assumed to have annual income of less than \$200,000. In particular, we have proposed that an MII has had annual net income in excess of \$75,000 or \$125,000 with their spouse for the last two years and, in the case of non-individuals, generally to persons or companies that are controlled by a MII. We have not proposed an asset test by which a person or company could qualify to invest. We were concerned that an investor e.g., a retired investor, might meet an asset test based on the value of their home but have very little income and not be able to withstand the loss of their investment. Should we consider adding a liquid asset test? If so, would \$500,000 in net realizable financial assets (i.e., cash and securities) be an appropriate limit?

3. Are the limits on investment for MIIs under the Proposed Exemption in any 12 month period appropriate i.e.,
 - a. \$10,000 when the specified financial statements are not provided, and
 - b. \$20,000 when the specified financial statements are provided?
4. Investors who do not qualify as "MIIs" can be assumed to have annual income of less than \$75,000 and/or a combined income with their spouse of less than \$125,000. Are the limits on investment under the Proposed Exemption in any 12 month period appropriate i.e.,
 - a. \$2,500 when the specified financial statements are not provided, and
 - b. \$5,000 when the specified financial statements are provided?
5. Purchasers would have a two day cancellation right or cooling off period and would also have a statutory right of action to sue for damages or rescission in the event of a misrepresentation, without needing to prove that they relied on that misrepresentation. Are other conditions beyond the offering document, risk acknowledgement and investment limits necessary to address investor protection concerns?
6. We have proposed that an issuer group that raises more than \$1,500,000 from investors who do not qualify to invest under other specified exemptions in any 12 month period under the Proposed Exemption would need to undertake to make available a notice of use of proceeds to each holder of a security distributed under the Proposed Exemption (and any transferee of such security). Do you think that this requirement should apply to all raises under the Proposed Exemption (i.e., including raises of less than \$1,500,000 in any 12 month period)?
7. We have proposed that the issuer be required to file the offering document together with a Form 45-106F1 *Report of Exempt Distribution* and deliver the undertaking, if required, within 10 days following the distribution. Under the start-up crowdfunding regime, issuers have 30 days. Is 10 days a reasonable timeline to complete this filing, which must be done electronically through SEDAR?
8. We have proposed that the issuer group could raise up to the aggregate lifetime maximum of \$5,000,000 under the Proposed Exemption. The intention of imposing a lifetime limit is to encourage issuers to graduate to the disclosure required either by the OM Exemption or that of a reporting issuer once they have raised more than the specified amount from investors.

The \$5,000,000 limit does not apply to investments made by investors under other exemptions e.g., accredited investor, family, close personal friends and business associates, foreign investors, or, if adopted, self-certified investors. Is \$5,000,000 the appropriate limit for requiring an issuer to graduate to the disclosure requirements under the OM Exemption?

9. We have proposed that an issuer group that raises more than \$1,500,000 from investors who do not qualify to invest under other specified exemptions under the Proposed Exemption in any 12 month period would need to undertake to deliver annual financial statements. However, we have proposed that these need not be audited, if subject to a review engagement report, and need not be prepared in accordance with Canadian GAAP for publicly accountable enterprises if they comply with the modified regulatory accounting principles set out in the Proposed Exemption.
 - a. Given the requirements of applicable corporate law, to what extent is there benefit in permitting the annual financial statements to be subject only to a review engagement report?
 - b. To what extent does the relief from having to deliver annual financial statements prepared in accordance with Canadian GAAP for publicly accountable enterprises reduce the regulatory burden for small businesses?
 - c. Do you anticipate that issuers will have difficulty engaging accountants to review and provide review engagement reports if financial statements are prepared in accordance with the modified regulatory accounting principles set out in the Proposed Exemption?
 - d. The reason for requiring ongoing financial statements is to allow investors to see whether the offering proceeds were used as described in the offering document. We have contemplated that the requirement to provide ongoing financial statements continue until the proceeds raised by the issuer under the Proposed Exemption have been completely expended. Is this appropriate or should this obligation continue until the earlier of (i) the date the issuer becomes a reporting issuer in any jurisdiction of Canada, and (ii) the date the issuer ceases to carry on business?
10. Registered dealers may be unwilling to participate in financings under the Proposed Exemption given the small amount of capital being raised. Is this a reasonable assumption? Would registered dealers be likely to participate in such financings?
11. We have indicated that although the Proposed Exemption would not be available to investment funds, we anticipate that it may be used by businesses that act as vehicles for collective investment, including opportunity development cooperatives (**ODCs**). Do you anticipate that ODCs or other businesses that act as vehicles for collective investment would rely on this exemption? If so, should we require additional disclosure from such issuers in line with what is being contemplated for "collective investment vehicles" as defined in the Proposed Amendments to National Instrument 45-106 *Prospectus Exemptions* and Proposed Changes to Companion Policy 45-106CP *Prospectus Exemptions* Relating to the Offering

Memorandum Prospectus Exemption.⁷

12. Do you anticipate that this exemption would be of interest to issuers that are raising money without a specific business objective, commonly known as "blind pools" or "blank checks?" If so, would it be appropriate to bar these issuers from using this exemption by prohibiting the proceeds of the distribution from being used by the issuer to invest in, merge or amalgamate with or acquire a business that has not been described in the issuer's offering document? Alternatively, rather than bar these issuers from using the exemption, are there conditions to its use that would be appropriate to impose on such issuers (e.g., funds raised must be held in trust until a business is invested in, merged with, amalgamated with, or acquired, a shareholders meeting is required to approve the business that will be invested in, merged with, amalgamated with, or acquired etc.).

Alberta-only

13. With respect to multi-jurisdictional crowdfunding offerings, ASC Rule 45-517 *Prospectus Exemption for Start-Up Businesses* (45-517) has been superseded by ASC Blanket Order 45-521 *Start-up Crowdfunding Registration and Prospectus Exemptions* (which is anticipated to in turn be superseded by National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*). 45-517 has only been used for local non-crowdfunding offerings. The Proposed Exemption would increase the investment and offering limits as compared to 45-517 and consequently there does not appear to be a reason to maintain 45-517. Do you agree or disagree? Please explain.

Submitting Comments

Please submit your comments to the Proposed Exemption in writing on or before **May 7, 2021** and/or to the consequential amendments to National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* in writing on or before **May 24, 2021**.

Comments may be submitted by either of the following:

- 1) **By sending an email** to New.Economy@asc.ca or
- 2) **By hard copy** to the attention of:

Cathy Tearoe
Senior Legal & Policy Counsel, New Economy
Alberta Securities Commission
Suite 600, 250 – 5th Street SW

⁷ See: <https://www.albertasecurities.com/securities-law-and-policy/regulatory-instruments/45-106>. If adopted, issuers that are collective investment vehicles would be required to complete new Schedule 2 *Additional Disclosure Requirements for an Issuer That is a Collective Investment Vehicle* to Form 45-106F2, which includes: (i) a description of the issuer's investment objectives; (ii) disclosure of penalties, sanctions, bankruptcy, insolvency and criminal or quasi-criminal convictions for persons involved in the selection and management of the investments; (iii) disclosure of information regarding the portfolio; and (iv) disclosure regarding the performance of the portfolio.

Calgary, AB T2P 0R4

Please note that comments received will be made publicly available and will be posted on the ASC's website at www.albertasecurities.com. Accordingly, you should not include personal information directly in comments. It is important that you state on whose behalf you are making the submission.

Questions

If you have any questions in respect of the Proposed Exemption, please contact any of the following:

Denise Weeres Director, New Economy, ASC 403.297.2930 denise.weeres@asc.ca	Heather Kuchuran Director, Corporate Finance, Securities Division, FCAA 306.787.1009 heather.kuchuran@gov.sk.ca
Cathy Tearoe Senior Legal & Policy Counsel New Economy, ASC 403.355.9027 cathy.tearoe@asc.ca	Mikale White Securities Division, Legal Counsel, FCAA 306.798.3381 mikale.white@gov.sk.ca

ANNEX A

TEMPLATE PROPOSED BLANKET/GENERAL ORDER 45-539

SMALL BUSINESS FINANCING

Definitions

1. Unless otherwise defined in this [Blanket/General Order], terms defined in the *Securities Act* (■) (the **Act**), have the same meaning in this [Blanket/General Order]. In particular, the terms "[Alberta/Saskatchewan] securities laws", "company", "control", "director", "distribution", "investment fund", "issuer", "misrepresentation", "officer", "person", "reporting issuer", "security", and "subsidiary" have the meanings ascribed in the Act.

2. In this [Blanket/General Order]:

"**Accredited Investor**" means an accredited investor as defined in section 1.1 [*accredited investor*] of National Instrument 45-106 *Prospectus Exemptions*;

"**Affiliate**" means in respect of an issuer, another issuer that is the parent or subsidiary of the first issuer or that is under the control of the same person or company;

"**Corresponding Exemption**" means an order or ruling of another securities regulatory authority or securities regulator in Canada that provides an exemption from the prospectus requirement that is substantially similar exemption to this [Blanket/General Order];

"**Eligible Security**" means any of the following securities of an issuer:

- (a) a common share;
- (b) a preference share;
- (c) a debt security other than a securitized product as defined in section 1.1 [*securitized product*] of National Instrument 45-106 *Prospectus Exemptions* or a structured finance product as defined in section 1 [*structured finance product*] of National Instrument 25-101 *Designated Rating Organizations*;
- (d) a unit of a limited partnership;
- (e) a membership share or investment share issued by a cooperative organized under the *Cooperatives Act* (Alberta);
- (f) a security convertible or exchangeable into a security referred to in (a) to (e);

"**Family & Friends Investor**" means a person or company described in subsection 2.5(1) [*Family, friends and business associates*] of National Instrument 45-106 *Prospectus Exemptions*;

"Foreign Investor" means a person or company outside of Canada, to whom a distribution may be made under ASC Rule 72-501 *Distributions to Purchasers Outside Alberta*;

"Founder" means, in respect of an issuer, a person or company who,

- (a) acting alone, in conjunction, or in concert with one or more persons or companies, directly or indirectly, takes the initiative in founding, organizing or substantially reorganizing the business of the issuer; and
- (b) at the time of the distribution or trade is actively involved in the business of the issuer;

"Issuer Group" means an issuer together with each of the following:

- (a) each person or company that is an Affiliate of the issuer;
- (b) each other issuer that is either of the following:
 - (i) that is engaged in a common enterprise with the issuer or with an Affiliate of the issuer;
 - (ii) that has a Founder that is a Founder of the issuer;

"Minimum Income Investor" or "MII" means

- (c) a person or company whose net income before taxes meets at least one of the following:
 - (i) exceeded \$75 000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year; or
 - (ii) with a spouse exceeded \$125 000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year;
- (d) a person or company of which a majority of the voting securities are beneficially owned by MIIs or Accredited Investors or a majority of the directors are MIIs or Accredited Investors;
- (e) a general partnership of which all of the partners are MIIs or Accredited Investors;
- (f) a limited partnership of which a majority of the directors of the general partner are MIIs or Accredited Investors;
- (g) a trust or estate in which all of the beneficiaries or a majority of the trustees or executors are MIIs or Accredited Investors.

"Participating Jurisdiction" means Alberta and Saskatchewan and each other jurisdiction of Canada that adopts a Corresponding Exemption;

["Self-Certified Investor" means a person or company described in section 2 of ASC Blanket Order 45-538 *Self-Certified Investor Prospectus Exemption.*]

Prospectus exemption

3. The [Securities Regulatory Authority], considering that it would not be prejudicial to the public interest to do so, orders under section [213 ASA /83 SSA] of the Act that the prospectus requirement in section [110 ASA /58 SSA] of the Act does not apply to a distribution by an issuer provided all of the following apply:
- (a) the head office of the issuer is located in a Participating Jurisdiction;
 - (b) a majority of the directors and officers of the issuer, collectively, as a group, are located in Canada;
 - (c) the issuer is not a reporting issuer or an investment fund;
 - (d) each security distributed is an Eligible Security of the issuer's own issue;
 - (e) the aggregate proceeds raised under this [Blanket/General Order] or a Corresponding Exemption, by the issuer and members of its Issuer Group, from persons or companies who are not Accredited Investors, Family & Friend Investors, Foreign Investors, [or Self-Certified Investors] does not exceed \$5 000 000;
 - (f) at or before the time a purchaser signs the subscription agreement, the issuer
 - (i) delivers to the purchaser an offering document in the form specified in Annex 1 - *Small Business Offering Document* annexed to this [Blanket/General Order] that complies, as applicable, with subparagraphs 3(j), (l) and (m) of this [Blanket/General Order]; and
 - (ii) obtains from the purchaser a risk acknowledgement in the form specified in Annex 2 - *Small Business Risk Acknowledgement* annexed to this [Blanket/General Order], which has been completed solely by and signed by the purchaser;
 - (g) the issuer does not know and has no reasonable basis to believe that the statements made by the purchaser in the risk acknowledgement are false;

- (h) if the issuer has not included in the offering document the additional financial disclosure described in Schedule A of Annex 1 - *Small Business Offering Document* annexed to this [Blanket/General Order], the aggregate acquisition cost to the purchaser of all securities of the Issuer Group acquired under this [Blanket/General Order] or a Corresponding Exemption in the preceding 12 months, other than a purchaser that is an Accredited Investor, Family & Friends Investor, Foreign Investor, [or Self-Certified Investor] does not exceed
 - (i) \$2 500; or
 - (ii) in the case of a MII \$10 000;
- (i) if the issuer has included in the offering document the additional financial disclosure described in Schedule A of Annex 1 - *Small Business Offering Document* annexed to this [Blanket/General Order], the aggregate acquisition cost to the purchaser of all securities of the Issuer Group acquired under this [Blanket/General Order] or a Corresponding Exemption in the preceding 12 months, other than a purchaser that is an Accredited Investor, Family & Friends Investor, Foreign Investor, [or Self-Certified Investor] does not exceed
 - (i) \$5 000; or
 - (ii) in the case of a MII \$20 000;

Offering Document

- (j) the offering document provided to a purchaser contains a certificate signed by a person authorized to sign on behalf of the issuer stating that the offering document does not contain a misrepresentation;

Other offering materials and advertisements

- (k) no advertising or material made available to a purchaser that purports to describe the business and affairs of the issuer and that has been prepared primarily for delivery to and review by a prospective purchaser so as to assist the prospective purchaser to make an investment decision contains a misrepresentation;

Financial statements

- (l) if the aggregate funds raised in the distribution under this [Blanket/General Order], together with the aggregate funds raised by members of the Issuer Group under this [Blanket/General Order] or a Corresponding Exemption in the preceding 12 months, exceeds \$1 500 000, not including funds from persons or companies who are Accredited Investors, Family & Friend Investors, Foreign Investors, [or Self-Certified Investors] the issuer

- (i) includes in the offering document, the financial statements specified in Schedule A of Annex 1 - *Small Business Offering Document* annexed to this [Blanket/General Order]; and
- (ii) undertakes as described in Annex 3 - *Small Business Undertaking* annexed to this [Blanket/General Order] to deliver annually its annual financial statements and a notice of proceeds;

Minimum offering amount

- (m) the offering document specifies a minimum offering amount that must be raised, which amount can include funds raised under other exemptions from the prospectus requirement;
- (n) the subscription agreement provides that if a distribution under this [Blanket/General Order] is withdrawn or if the issuer does not raise the specified minimum offering amount by the 120th day after the date that the offering document is first delivered to a purchaser, the issuer will as soon as reasonably possible,
 - (i) return all funds to each purchaser; and
 - (ii) notify each purchaser that the funds have been returned;

Filings

- (o) on or before the 10th day after the closing of the distribution, the issuer files each of the following:
 - (i) a completed offering document;
 - (ii) if applicable, the undertaking required by subparagraph 3(1)(ii); and
 - (iii) a completed Form 45-106F1 *Report of Exempt Distribution*, together with the applicable fee.

Resale restrictions

- 4. The [Securities Regulatory Authority], considering that it would not be prejudicial to the public interest to do so, orders under section [144(2) ASA/SSA] of the Act that the first trade of a security acquired under section 3 is subject to section 2.5 of National Instrument 45-102 *Resale of Securities*.

Designated offering memorandum

- 5. [In Alberta, the Commission, considering that it would not be prejudicial to the public interest to do so, orders under section 10 of the Act that an offering document used for a distribution under this Blanket Order, including all amendments to that document, is

designated to be an offering memorandum under Alberta securities laws.

In Saskatchewan, any document that provides information about the business or affairs of an issuer that has been prepared primarily for delivery to and review by a prospective purchaser to assist the prospective purchaser in making an investment decision about securities being sold in a distribution under this Order, including all amendments to that document, is designated to be an offering memorandum under securities legislation in Saskatchewan, unless that document is an annual report, interim report, information circular, take-over bid circular, issuer bid circular or prospectus.]

Financial Statements

6. The [Securities Regulatory Authority], considering that it would not be prejudicial to the public interest to do so, orders under section [213 ASA /160(1) SSA] of the Act that an offering document used for a distribution under this [Blanket/General Order] that complies with the requirements of this [Blanket/General Order], including Schedule A of Annex 1 - *Small Business Offering Document*, is exempt from paragraphs 3.2(1)(a), 3.2(1)(b) and subparagraph 3.11(1)(f)(ii) of National Instrument 52-107 *Acceptable Auditing Principles and Auditing Standards*.
7. In Alberta, the Commission, considering that it would not be prejudicial to the public interest to do so, orders under subsection 221(5) of the Act that any financial statements or notices of proceeds delivered pursuant to the undertaking referenced in subparagraph 3(1)(ii) be held in confidence by the Commission.

Effective date

8. This [Blanket/General Order] takes effect on ■ 2021.

Annex 1
FORM 45-539F1
SMALL BUSINESS OFFERING DOCUMENT

GENERAL INSTRUCTIONS:

- (1) *An offering document prepared using this form can only be used for a distribution of securities under Alberta Securities Commission Blanket Order 45-539 Small Business Financing and Financial and Consumer Affairs Authority of Saskatchewan General Order 45-539 Small Business Financing (each an **Order**).*
- (2) *The offering document and all amendments to it must be submitted through the System for Electronic Document Analysis and Retrieval in accordance with National Instrument 13-101 System for Electronic Document Analysis and Retrieval (**SEDAR**), no later than the 10th day after the closing of the distribution.*
- (3) *The offering document must be certified by an individual authorized to act on behalf of the issuer.*
- (4) *Draft this offering document so that it is easy to read and understand. Be concise and use clear, plain language. Avoid technical terms.*
- (5) *Information provided must be fair and balanced and not untrue or misleading.*
- (6) *Conform as closely as possible to the format set out in this form. Address the items in the order set out below. No variation of headings, numbering or information set out in the form is allowed and all are to be displayed as shown.*
- (7) *Various terms used in this form are defined in Alberta and Saskatchewan securities laws.*
- (8) *The offering document must be provided to each purchaser before the purchaser signs the subscription agreement. The offering document must not contain a misrepresentation. A misrepresentation means an untrue statement of material fact or an omission to state a material fact that is required to be stated, or necessary to prevent a statement that is made from being false or misleading in the circumstances in which it was made. If the information contained in the offering document becomes untrue or misleading the offering document must be amended and purchasers must be given the amended offering document before their subscription can be accepted.*
- (9) *If any forward-looking information (e.g., projected sales or anticipated contracts) that could reasonably be expected to be material to a purchaser's decision to invest is included in the offering document identify it and include proximate to it (i) reasonable cautionary language identifying material factors that could cause actual results to differ materially from the conclusion, forecast or projection in the forward-looking information, (ii) states the assumptions or material factors used to develop the forward looking information and (iii) states that the issuer believes it has a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the forward-looking information.*

Item 1: Front Page

(1) Include the following statement on the first page of the offering document in bold type:

No securities regulatory authority or regulator has reviewed or approved the merits of these securities or reviewed this offering document. Any representation to the contrary is an offence. This is a risky investment. See Item 7.

(2) Provide the following information for the issuer:

- (a) full legal name and any name it operates under,
- (b) head office address,
- (c) telephone number,
- (d) email address,
- (e) website URL, if applicable, and
- (f) a very brief description (2 or 3 sentences) of its business.

(3) Include the following statement in bold type:

A more detailed description of the issuer's business is provided at Item 3.

(4) Identify an officer, employee or agent of the issuer who is able to answer questions from purchasers or staff of the Alberta Securities Commission or the Financial and Consumer Affairs Authority of Saskatchewan. Provide the following contact information for that individual:

- (a) full legal name,
- (b) position held with the issuer,
- (c) business address,
- (d) business telephone, and
- (e) business e-mail.

(5) Provide the following information about the offering:

- (a) brief description of the key terms of securities offered, including the price per security,
- (b) minimum investment required by a purchaser or state that there is no minimum investment,
- (c) minimum offering required to be raised and date by which it must be raised, which date cannot be later than 120 days after the date this offering document is first delivered to a purchaser,
- (d) maximum offering or state that there is no maximum,
- (e) anticipated closing date(s), and

- (f) the names of each person or company that will be selling the securities on behalf of the issuer.

(6) Include the following statements in bold type:

- (a) **If the minimum offering is not raised by** [*Instruction: Insert date that is not more than 120 days after the date the offering document is first delivered to a purchaser*] **all funds will be returned to purchasers.**
- (b) **Funds available following the offering may not be sufficient to accomplish the proposed objectives.** [*Instruction: Delete if the available funds following the minimum offering will provide sufficient funds to accomplish all of the proposed objectives for the next 12 months.*]
- (c) **No person or company other than a registrant is qualified to recommend that an investment in these securities is suitable for you.**
- (d) **The forecasts and predictions of an early-stage business are particularly difficult to objectively analyze or confirm. Carefully consider whether those presented appear reasonable. Forward-looking information presented is required to be reasonable but it is the opinion of the issuer and actual results may be very different.** [*Instruction: Delete if there are no forecasts or forward-looking information provided.*]
- (e) **You will be restricted from selling your securities. These restrictions will continue indefinitely. See Item 9.**
- (f) **You have 2 business days to cancel your agreement to purchase these securities. If there is a misrepresentation in this offering document, you also have a right to sue for damages or to cancel the agreement. See Item 10.**

Item 2: Use of Available Funds

- (1) Available Funds** - Using the following table, disclose the funds available to the issuer as a result of the offering.

		Assuming minimum offering	Assuming maximum offering
A.	Amount to be raised by this offering	\$	\$
B.	Selling commissions and fees	\$	\$
C.	Estimated offering costs (including legal and accounting.)	\$	\$
D.	Total Available funds: $D = A - (B+C)$	\$	\$

(2) Use of Available Funds -

- (a) Using the following table, provide a detailed breakdown of how the issuer proposes to use the available funds. Provide enough detail to allow purchasers to make an informed investment decision.
- (b) If any of the available funds will be paid to a related party, disclose in the table the name of the related party, the relationship to the issuer, and the amount.

- (c) If more than 10% of the available funds will be used by the issuer to pay debt and the issuer incurred the debt within the two preceding financial years, describe why the debt was incurred.

Description of intended use of available funds listed in order of priority	Assuming minimum offering	Assuming maximum offering
	\$	\$
	\$	\$
Total: [Instruction: The total should equal D in the Available Funds table above]	\$	\$

Item 3: Business of the Issuer and Other Information and Transactions

(1) **Structure** - Provide the following information about the organization of the issuer:

- (a) legal structure of the issuer (e.g., corporation, partnership, trust, or unincorporated sole proprietor),
- (b) the statute and jurisdiction under which the issuer is incorporated, continued or organized,
- (c) the date of incorporation, continuance or organization of the issuer, and
- (d) how a purchaser can view the issuer’s organizational documents (e.g., articles of incorporation, partnership agreement or shareholder agreement).

(2) **The Business** - Describe the material aspects of the issuer’s business.

Guidance: The information provided must be balanced and fair and not misleading or untrue. It should not over-emphasize the positive and downplay the negative. If the issuer has future plans or goals but the reasonableness of those plans or goals cannot yet be appropriately analyzed or assessed or, given the stage of development of the business, there can be little or no assurance that the plans or goals are achievable, the risks associated with being able to achieve those plans or goals should be made clear.

Enough details should be provided so a purchaser can clearly understand the issuer’s business, what it currently does and intends to do.

Information that may be important to purchasers includes the following:

- *Does or will the issuer build, design or develop something? Sell something produced by itself? By others? Provide a service?*
- *Does the issuer have business premises from which it can operate its business?*
- *How many employees does the issuer have? Need?*
- *Has the issuer entered any contracts that are important to its business?*
- *Are there factors that make the issuer’s business different from its competitors?*
- *What milestones has the issuer already reached e.g., developed a prototype, signed a distribution agreement, leased premises, obtained a bank loan or other significant financing, generated sales, generated a profit?*

- *What milestones does the issuer hope to achieve in the next couple of years e.g., Complete testing? Find a manufacturer? Commence a marketing campaign? Buy inventory? What is the proposed timeline for achieving each of the milestones?*
- *What are the major hurdles that the issuer expects to face in achieving its milestones?*
- *If the issuer is offering shares or similar securities to purchasers, is there a long-term goal that would provide an "exit-opportunity" for purchasers e.g., the issuer hopes to eventually become a reporting issuer? Be bought out/taken over by a larger company.*

(NOTE: Unless certain conditions are met, it is a breach of securities laws to state that an issuer will be or will apply to be traded on an exchange or quoted on a quotation and trade reporting system.)

- (a) For a non-resource issuer, include a description of the principal products or services, operations, market, marketing plans and a discussion of the issuer's current and prospective competitors.
- (b) For a resource issuer, describe the principal properties (including interest held), the stage of development, reserves, geology, operations, production and mineral reserves or mineral resources being explored or developed.

Guidance: Refer to National Instrument 43-101 Standards of Disclosure for Mineral Projects when disclosing scientific or technical information for a mineral project of the issuer. Refer to Part 4 and Part 5 of National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities for oil and gas issuers disclosing information about their oil and gas activities.

Note: Disclosure of reserves or resources that is not consistent with the reserves and resources terminology and categories set out in the Canadian Oil and Gas Evaluation Handbook may be misleading.

- (c) If the issuer has any subsidiaries, affiliates, or related parties, and the relationships with those parties would be important to a purchaser in understanding the issuer's business, include an organizational chart and a description of the relationships between them.
- (d) If the issuer is a vehicle for collective investment such as an opportunity development cooperative, describe the information that the issuer will collect regarding the business of each underlying investment and what information will be provided to a purchaser regarding the business of each underlying investment.

(3) Material Investments – If at the time of the distribution the issuer has identified a person or company that a reasonable person would believe the likelihood is high that the issuer will direct by loan or investment, at least 50% of the aggregate gross proceeds raised by the issuer under an Order in the preceding 12 month period, the offering document must also provide the disclosure specified by Items 3, 4, 5(1), 5(2), 7 and 11 of this Form for that other issuer, as if that other issuer were the issuer preparing the offering document.

(4) Material Contracts – For each contract that the issuer or a related party to the issuer is currently a party to, that is material to the issuer,

- (a) disclose:

- (i) the parties to the contract,
 - (ii) if the contract is with a related party, the relationship to the issuer,
 - (iii) the date of the contract, and
- (b) either
- (i) disclose the material terms of the contract, or
 - (ii) provide prospective purchasers with reasonable access to the contract and include a statement with instructions on how the purchaser may obtain access to the agreement.

Item 4: Directors and Management

(1) Director and management experience - Using the following table, provide the specified information for each director, officer, founder (as defined in an Order) and control person of the issuer. Use notes to the table to indicate the date securities were acquired and the price paid for the securities.

Full legal name, municipality of residence, and position at issuer	Principal occupation for the last five years	Expertise, education, and experience that is relevant to the issuer's business	Number and type of securities of the issuer held after completion of minimum offering	Number and type of securities held after completion of maximum offering

(2) Penalties, Sanctions, Bankruptcy, Insolvency and Criminal or Quasi-Criminal Matters - State whether the issuer or any director, officer, founder (as defined in an Order) or control person of the issuer

- (a) has ever, pled guilty to or been found guilty of
 - (i) a summary conviction or indictable offence under the *Criminal Code* (R.S.C., 1985, c. C-46) (Canada),
 - (ii) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction, which includes offences under the *Income Tax Act* (R.S.C. 1985, c. 1 (5th Suppl.)), the *Immigration and Refugee Protection Act* (R.S.C., 2001, c. 27) and the tax, immigration, drugs, firearms, money laundering or securities legislation of any province or territory of Canada or of a foreign jurisdiction,
 - (iii) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein, or
 - (iv) an offence under the criminal legislation of any other foreign jurisdiction,
- (b) is or has been the subject of an order (cease trade or otherwise), judgment, decree, sanction, or administrative penalty imposed by a government agency, administrative

agency, self-regulatory organization, civil court, or administrative court of Canada or a foreign jurisdiction in the last 10 years related to his or her involvement in any type of business, securities, insurance or banking activity,

- (c) is or has been the subject of a bankruptcy or insolvency proceeding, or
- (d) is a director or officer of an issuer that is or has been subject to a proceeding described in (a), (b) or (c) above.

(3) Compensation to directors and officers

- (a) State the aggregate compensation paid by the issuer or a related party of the issuer to the directors and officers of the issuer, for services to the issuer, in the most recently completed financial year.
- (b) State the aggregate compensation anticipated to be paid by the issuer or a related party of the issuer to the directors and officers of the issuer, for services to the issuer, in the current financial year.

Item 5: Capital Structure

(1) Outstanding Securities - Describe the number and type of securities of the issuer outstanding as at the date of the offering document, other than long-term debt securities disclosed in Item 5(2). If there are securities outstanding other than the class of securities being offered, please describe those securities.

(2) Long term debt - Using the following table, provide the specified information about outstanding debt of the issuer for which all or a portion is due, or may be outstanding, more than 12 months from the date of the offering document.

Instructions:

- (a) Add notes to the table to disclose any amounts of the debt that are due within 12 months of the date of the offering document.
- (b) Add notes to the table to describe any conversion terms.
- (c) If the securities being offered are debt securities add columns to the table disclosing the amount of the debt that will be outstanding after both the minimum and maximum offering.
- (d) If the debt is owed to a director, officer, or other related party, indicate that in a note to the table and identify the related party.

Description of debt (including whether secured)	Interest rate	Repayment terms	Amount outstanding at a date not more than 30 days before the date of the offering document
			\$
			\$

(3) **Prior Sales** - If the issuer has within the 12 months prior to the offering document issued any securities of the class being offered under the offering document (or convertible or exchangeable into the class being offered under the offering document), use the following table to provide the specified information.

Date securities issued	Number of securities issued	Price per security	Total funds received or, if applicable, description of asset or services received

Item 6: Details of the Offering

(1) **Terms of Securities Offered** - Describe the material terms of the securities being offered, including:

- (a) voting rights or restrictions on voting,
- (b) conversion or exercise price and date of expiry,
- (c) terms that provide a right to redeem or retract,
- (d) rights to participate in future financings,
- (d) interest rate, and dividend or distribution policy.

Guidance: Only "eligible securities" as defined in an Order can be distributed under an Order. The information required to address Item 6(1) is usually found in the organizing documents of the issuer referred to in Item 3(1).

(2) **Superior Rights** - If any outstanding securities will be superior to those being offered, e.g., because of priority to dividends, priority in insolvency, greater voting rights or rights to participate in future financings or acquisitions, state that.

(3) **Process for Subscribing**

- (a) Describe the procedure for a purchaser to subscribe for the securities and how payment can be made.
- (b) State that the payment will be held in trust for the purchaser and the period that it will be held [*Instruction: The payment must be held in trust for at least the length of the purchaser's two day cancellation right described in Item 10.*]
- (c) Disclose any conditions that must be met prior to closing, including any receipt of additional funds from other sources.
- (d) State the date by which the minimum offering must be raised. [*Instruction: The date cannot be later than 120 days after the date this offering document is first delivered to a purchaser.*]
- (e) Disclose when funds will be returned to purchasers if the minimum offering is not reached.

- (4) Commissions and Other Selling Compensation** - If any person or company has or will receive any commission, corporate finance fee or finder's fee or any other similar compensation in connection with the offering, provide the following information:
- (a) a description of each type of compensation and the estimated amount of each,
 - (b) if a commission is being paid, the percentage that the commission will represent of the gross proceeds of the offering (assuming both the minimum and any maximum offering), and
 - (c) details of any broker's warrants or agent's option (including number of securities under option, exercise price and expiry date).

- (5) Income Tax Consequences and RRSP Eligibility** – Include the following statement:

Not all securities are eligible for investment in a registered plan, like a registered retirement savings plan (RRSP). Even if the securities are eligible for such plans, the investment is still risky. It is not generally recommended to use funds needed for retirement to make risky investments.

Item 7: Risk Factors

Describe **in order of importance**, starting with the most important, the main risks for purchasers in investing in the issuer's business.

Guidance: Risk factors will generally fall into the following 3 categories:

- (a) *Investment Risk - risks that are specific to the securities being offered. Some examples include*
 - *the purchase price is arbitrary and there is no independent valuation,*
 - *a purchaser may experience an immediate dilution of their investment because securities previously issued were issued for nominal consideration,*
 - *resale restrictions,*
 - *no market in which to resell the securities and no near term "exit strategy" for purchasers,*
 - *for redeemable securities, conditions or restrictions on redemption,*
 - *insufficient funds to pay dividends or interest or redeem securities,*
 - *for debt securities being subordinate to other debt, and*
 - *if the issuer is investing in other issuers, the risk to a purchaser in not having voting rights or rights to the assets of that other issuer.*
- (b) *Issuer Risk - risks that are specific to the issuer. Some examples include*
 - *limited business experience of management,*
 - *the need to raise more funds to accomplish the issuer's business objectives,*
 - *no history or a limited history of revenue or profits,*
 - *lack of specific technical expertise,*
 - *dependence on key employees,*
 - *reliance on key suppliers or customers,*
 - *management's regulatory and business track record, and*

- *existing or threatened lawsuits.*
- (c) *Industry Risk - risks faced by the issuer because of the industry in which it operates. Some examples include*
 - *significant regulatory requirements or approvals required,*
 - *environmental, health and safety issues,*
 - *competition, including from more established businesses.*

The disclosure of risk factors must be fair and balanced and not misleading or untrue. Issuers may indicate how they hope to mitigate these risks, but should not deemphasize the risks by including excessive caveats or conditions.

Item 8: Reporting Obligations

- (a) If the issuer is required by an Order, corporate law, its constating documents (e.g., articles of incorporation or bylaws) or otherwise, to provide ongoing disclosure to purchasers e.g., annual financial statements or an information circular/proxy statements, state that fact.
- (b) If the issuer is not required to provide any documents to the purchasers on an annual or on-going basis, include the following statement in bold type:

We are not required to provide you any documents on an annual or ongoing basis.

Guidance: An Order may require the issuer to provide annual financial statements to its investors. Further, corporate legislation in many jurisdictions requires issuers with more than a specified number of shareholders to prepare and disseminate audited annual financial statements. Further, such issuers may be required to hold annual meetings of shareholders and provide certain specified disclosure in an information circular. Refer to applicable corporate law.

Item 9: Resale Restrictions

Include the following statement in bold type:

The securities you are purchasing are subject to resale restrictions that will continue indefinitely. Unless the issuer becomes a reporting issuer (public company) they can only legally be resold to a very limited number of people under a prospectus or under exemptions from the prospectus requirement. Even if they can be legally resold, you may not be able to identify a buyer. You may never be able to resell the securities.

Item 10: Investors' Rights

Include the following statements in bold type:

You have 2 business days to change your mind about this investment.

You also have a right to sue if there is a misrepresentation in the offering document. See below for further details.

Two-day cancellation right - If you agree to make an investment, you have a short period in which to change your mind, for any reason, and cancel your agreement.

To do so, you must send a written notice to the issuer by not later than midnight on the 2nd business day after signing the agreement to purchase the securities.

Right of action in the event of a misrepresentation – If you invest and find that there is a misrepresentation in the offering document, including all amendments to that document, you have a statutory right to either (a) sue the issuer to cancel your agreement or (b) sue the issuer, its directors, and each person or company who has signed the offering document for damages.

This right to sue is available to you whether or not you relied on the misrepresentation. However, there are various defences available to the persons or companies that you have a right to sue. In particular, they have a defence if you knew of the misrepresentation when you purchased the securities.

If you intend to rely on these rights, you must do so within strict time limits. Consult a lawyer! If you intend to sue to cancel your agreement because of a misrepresentation you must start the lawsuit no more than 180 days from the day of the transaction giving rise to the cause of action. If you intend to sue for damages you must start the lawsuit within the earlier of (a) 180 days from the day of first having knowledge of the facts giving rise to the cause of action, and (b) 3 years from the day of the transaction giving rise to the cause of action.

Item 11: Financial Statements

- (a) If the issuer is not required to include financial statements with the offering document and none have been voluntarily included, state that fact.
- (b) If any financial statements have been included with the offering document and they are not audited, state that the financial statements are not audited.
- (c) If the financial statements have been subject to a review engagement report, do **not** include that report with the financial statements.
- (d) If the issuer is required under an Order to include financial statements with the offering document or voluntarily chooses to include financial statements in the offering document, the financial statements must
 - (i) comply with Schedule A *Financial Statement Instructions* to this form; and
 - (ii) be included in the offering document, before the certificate required under Item 12.

Item 12: Date and Certificate

Include the following statement in bold type on the certificate page of the offering document:

Dated: [*Instruction: insert the date the certificate page of the offering document is signed*].

This offering document does not contain a misrepresentation.

Guidance: The offering document must be signed by an individual authorized to sign on behalf of the issuer.

Schedule A *Financial Statement Instructions*
to Annex 1
FORM 45-539F1
SMALL BUSINESS OFFERING DOCUMENT

The instructions in this Schedule A apply if the issuer is required to include financial statements in the offering document or is voluntarily providing financial statements.

General

1. National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) requires that all financial statements included in an offering memorandum or document that is filed with a securities regulatory authority be prepared in accordance with Canadian generally accepted accounting principles (**GAAP**) applicable to publicly accountable enterprises. An Order provides an exemption from certain provisions of NI 52-107.
 - (a) An issuer preparing an offering document under an Order must prepare its financial statements either in accordance with
 - (i) section 3.2 of NI 52-107, or
 - (ii) Part II of the CPA Canada Handbook (the **handbook**), as amended from time to time applied to an issuer as if it were a private enterprise provided that the financial statements consolidate any subsidiaries of the issuer and account for any significantly influenced investees and joint ventures using the equity method (the **modified regulatory accounting principles**) and paragraphs 3 to 30 of this Schedule A.
 - (b) The financial statements (excluding interim financial statements) included in the offering document must either be
 - (i) audited in accordance with section 3.3 of NI 52-107, or
 - (ii) if they have not been audited, subject to a review in accordance with the standard for engagements to review historical financial statements, as specified in the handbook (a **review**) and prepared in accordance with paragraphs 3 to 30 of this Schedule A.
2. The issuer must include a statement proximate to any financial statements:
 - (a) if prepared in accordance with the modified regulatory accounting principles as follows:

“These financial statements are prepared in accordance with the modified regulatory accounting principles specified in [Alberta Securities Commission Blanket Order 45-539 *Small Business Financing* and/or Financial and Consumer Affairs Authority of Saskatchewan General Order 45-539 *Small Business Financing*] and as such, [name of issuer or other term used to refer to issuer] is permitted to rather than providing financial statements prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises, provide financial statements prepared in accordance with GAAP for private enterprises, provided that any subsidiaries are consolidated and accounted for using the equity method. The recognition,

measurement and disclosure requirements of modified regulatory accounting principles differ from those of Canadian GAAP applicable to publicly accountable enterprises.”

(b) if subject to a review rather than an audit as follows:

“These financial statements, are prepared in accordance with [Alberta Securities Commission Blanket Order 45-539 *Small Business Financing* and/or Financial and Consumer Affairs Authority of Saskatchewan General Order 45-539 *Small Business Financing*] and as such, [name of issuer or other term used to refer to issuer] is permitted to rather than providing audited annual financial statements, provide annual financial statements that have been reviewed by a certified public accountant. A review of annual financial statements by a certified public accountant provides limited assurance and lacks the level of assurance for audited annual financial statements.”

(c) if audited by an audit firm that has not entered into a participation agreement with the Canadian Public Accountability Board as follows:

“[Name of audit firm] audited the financial statements of [name of issuer or other term used to refer to issuer] for the year ended [state the period of the most recent financial statements included in the prospectus] and issued an auditor’s report dated [state the date of the auditor’s report for the relevant financial statements]. As at [state the date of the auditor’s report for the relevant financial statements], [name of audit firm] was not required by securities legislation to enter, and had not entered, into a participation agreement with the Canadian Public Accountability Board. An audit firm that enters into a participation agreement is subject to the oversight program of the Canadian Public Accountability Board.”

Issuer Financial Statements

3. If the issuer has not completed one financial year or its first financial year end is less than 120 days from the date of the offering document, include in the offering document financial statements of the issuer consisting of:
 - (a) an income statement, a statement of retained earnings and a cash flow statement for the period from inception to a date not more than 90 days before the date of the offering document,
 - (b) a balance sheet as at the end of the period referred to in paragraph (a), and
 - (c) notes to the financial statements.
4. If the issuer has completed one or more financial years, include in the offering document annual financial statements of the issuer consisting of:
 - (a) an income statement, a statement of retained earnings and a cash flow statement for
 - (i) the most recently completed financial year that ended more than 120 days before the date of the offering document, and
 - (ii) the financial year immediately preceding the financial year in subparagraph (a)(i), if any, and
 - (b) a balance sheet as at the end of each of the periods referred to in paragraph (a), and
 - (c) notes to the financial statements.

5. If an issuer presents the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the income statement referred to in paragraph 4.
6. If the issuer has completed one or more financial years, include in the offering document interim financial statements of the issuer comprised of:
 - (a) an income statement, a statement of retained earnings and a cash flow statement for the most recently completed interim period that ended
 - (i) more than 60 days before the date of the offering document, and
 - (ii) after the year-end date of the financial statements required under subparagraph 4(a)(i),
 - (b) an income statement, a statement of retained earnings and a cash flow statement for the corresponding period in the immediately preceding financial year, if any, and
 - (c) a balance sheet as at the end of the period required by subparagraph (a)(i) and the end of the immediately preceding financial year.
7. If an issuer presents the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the income statement referred to in paragraph 6.
8. An issuer is not required to include the comparative financial information for the period in subparagraph 4(a)(ii) in an offering document if the issuer includes financial statements for a financial year ended less than 120 days before the date of the offering document.
9. The term "interim period" has the meaning set out in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) except for an investment fund, in which case it has the meaning in National Instrument 81-106 *Investment Fund Continuous Disclosure*.
10. The comparative financial information required under paragraphs 6(b) and 6(c) may be omitted if the issuer has not previously prepared financial statements in accordance with its current or, if applicable, its previous GAAP.
11. (a) If any of the financial statements required by paragraphs 3, 4 or subparagraph 14(a) have been audited, the auditor's report must be included in the offering document.
 - (b) The financial statements required by paragraph 4 and the financial information contained in the offering document may be unaudited or derived from unaudited 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 as defined in the Canadian Standard for Review Engagements (CSRE) 2400, *Engagements to Review Historical Financial Statements* (**modified conclusion**), and:
 - (A) identifies the financial statements that were subject to the review, including identification of the title of each of the statements contained in the set of

financial statements and the date and period covered by each financial statement,

- (B) is in the form specified by the standard for a review, and
- (C) refers to IFRS or the modified regulatory accounting principles as the applicable financial reporting framework.

12. The financial statements required under paragraph 6 and the comparative financial information required by paragraph 4 may be unaudited; however, if those financial statements or comparative financial information have been audited, the auditor's report must be included in the offering document.

13. All unaudited financial statements and unaudited comparatives must be clearly labelled as unaudited.

14. If the distribution is ongoing, the issuer must do the following:

- (a) if the offering document does not contain annual financial statements for the issuer's most recently completed financial year, the issuer must do the following:
 - (i) amend the offering document to include the annual financial statements as soon as the issuer has approved the financial statements, but in any event no later than the 120th day following the financial year end;
 - (ii) present the offering document and the annual financial statements in accordance with the instructions in paragraphs 1 to 24 and, for that purpose, the reference to the financial year in subparagraph 4(a)(i) shall mean the issuer's most recently completed financial year;
- (b) if the offering document does not contain interim financial statements for the issuer's most recently completed 6-month period, the issuer must do the following:
 - (i) amend the offering document to include the interim financial statements no later than the 60th day following the end of the period;
 - (ii) present the offering document and the interim financial statements in accordance with the instructions in paragraphs 1 to 24 and, for that purpose, the reference to the interim period in paragraph 6(a) shall mean the issuer's most recently completed 6-month period.

15. If the issuer has included in its offering document interim financial statements for its most recently completed 9-month period, paragraph 14(b) does not apply.

Financial Statements of Businesses Acquired or to be Acquired

16. If the issuer

- (a) has acquired a business during the past 2 years and the financial statements of the issuer included in the offering document do not include the results of the acquired business for 9 consecutive months, or
- (b) is proposing to acquire a business and the acquisition has progressed to a state where a reasonable person would believe that the likelihood of the acquisition being completed is high,

include the financial statements specified in paragraph 19 for the business if either of the tests in paragraph 17 is met, irrespective of how the issuer accounts, or will account, for the acquisition.

17. Include the financial statements specified in paragraph 19 for a business referred to in paragraph 16 if either:
 - (a) the issuer's proportionate share of the consolidated assets of the business exceeds 100% of the consolidated assets of the issuer calculated using the annual financial statements of each of the issuer and the business for the most recently completed financial year of each that ended before the acquisition date or, for a proposed acquisition, the date of the offering document or
 - (b) the issuer's consolidated investments in and advances to the business as at the acquisition date or the proposed date of acquisition exceeds 100% of the consolidated assets of the issuer, excluding any investments in or advances to the business, as at the last day of the issuer's most recently completed financial year that ended before the date of acquisition or the date of the offering document for a proposed acquisition. For information about how to perform the investment test in this paragraph, please refer to subsections 8.3(4.1) and (4.2) of NI 51-102. Additional guidance may be found in the companion policy to NI 51-102.
18. If an issuer or a business has not yet completed a financial year, or its first financial year ended within 120 days of the offering document date, use the financial statements referred to in paragraph 3 to make the calculations in paragraph 17.
19. If under paragraph 17 you must include in the offering document financial statements for a business, the financial statements must include:
 - (a) If the business has not completed one financial year or its first financial year end is less than 120 days from the date of the offering document
 - (i) an income statement, a statement of retained earnings and a cash flow statement
 - (A) for the period from inception to a date not more than 90 days before the date of the offering document, or
 - (B) if the date of acquisition precedes the ending date of the period referred to in clause (A), for the period from inception to the acquisition date or a date not more than 45 days before the acquisition date,
 - (ii) a balance sheet dated as at the end of the period referred to in subparagraph (i), and
 - (iii) notes to the financial statements.
 - (b) If the business has completed one or more financial years include
 - (i) annual financial statements comprised of:
 - (A) an income statement, a statement of retained earnings and a cash flow statement for the following annual periods:
 - i. the most recently completed financial year that ended before the acquisition date and more than 120 days before the date of the offering document, and

- ii. the financial year immediately preceding the most recently completed financial year specified in subclause i., if any,
- (B) a balance sheet as at the end of each of the periods specified in clause (A),
- (C) notes to the financial statements, and
- (ii) an interim financial statement comprised of
 - (A) either
 - i. an income statement, a statement of retained earnings and a cash flow statement for the most recently completed year-to-date interim period ending on the last date of the interim period that ended before the acquisition date and more than 60 days before the date of the offering document and ended after the date of the financial statements required under subclause (i)(A)i., and an an income statement, a statement of retained earnings and a cash flow statement for the 3 month period ending on the last date of the interim period that ended before the acquisition date and more than 60 days before the date of the offering document and ended after the date of the financial statements required under subclause (i)(A)i., or
 - ii. an income statement, a statement of retained earnings and a cash flow statement for the period from the first day after the financial year referred to in subparagraph (i) to a date before the acquisition date and after the period end in subclause (A)i.,
 - (B) an income statement, a statement of retained earnings and a cash flow statement for the corresponding period in the immediately preceding financial year, if any,
 - (C) a balance sheet as at the end of the period required by clause (A) and the end of the immediately preceding financial year, and
 - (D) notes to the financial statements.

Refer to paragraph 9 for the meaning of "interim period".

- 20. (a) If any of the financial statements required by paragraph 19(b)(i) have been audited, the auditor's report must be included in the offering document.
- (b) The financial statements required by paragraph 19(b)(i) and the financial information contained in the offering document may be unaudited or derived from unaudited 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 statements that were subject to the review, including identification of the title of each of the statements contained in the set of

financial statements and the date and period covered by each financial statement;

- (B) is in the form specified by the standard for a review; and
- (C) refers to IFRS or the modified regulatory accounting principles as the applicable financial reporting framework.

The financial statements required under paragraphs 19(a), subparagraph 19(b)(ii) and the comparative financial information required by subparagraph 19(b)(i) may be unaudited; however, if those financial statements or comparative financial information have been audited, the auditor's report must be included in the offering document.

All unaudited financial statements and unaudited comparatives must be clearly labelled as unaudited.

21. If the offering document does not contain financial statements for a business referred to in paragraph 16 for the business's most recently completed financial year that ended before the acquisition date and the distribution is ongoing, update the offering document to include those financial statements when they are available, but in any event no later than the date 120 days following the year-end.
22. The term "business" should be evaluated in light of the facts and circumstances involved. Generally, a separate entity or a subsidiary or division of an entity is a business and, in certain circumstances, a lesser component of an entity may also constitute a business, whether or not the subject of the acquisition previously prepared financial statements. The subject of an acquisition should be considered a business where there is, or the issuer expects there will be, continuity of operations. The issuer should consider:
 - (a) whether the nature of the revenue producing activity or potential revenue producing activity will remain generally the same after the acquisition, and
 - (b) whether any of the physical facilities, employees, marketing systems, sales forces, customers, operating rights, production techniques or trade names are acquired by the issuer instead of remaining with the vendor after the acquisition.

Reporting issuers are reminded that an acquisition may constitute the acquisition of a business for securities legislation purposes, even if the acquired set of activities or assets does not meet the definition of a "business" for accounting purposes.

23. If a transaction or a proposed transaction for which the likelihood of the transaction being completed is high has been or will be a reverse takeover, include financial statements for the legal subsidiary in the offering document. The legal parent is considered to be the business acquired. Paragraph 16 may also require financial statements of the legal parent.
24. An issuer satisfies the requirements in paragraph 19 if the issuer includes in the offering document the financial statements required in a business acquisition report under NI 51-102.

Financial Statement Exemptions

25. Notwithstanding the requirements in subparagraph 3.3(1)(a)(i) of NI 52-107, if an auditor's report accompanies financial statements of an issuer or a business contained in an offering document, it may express a qualification of opinion relating to inventory if

- (a) the issuer includes in the offering document a balance sheet that is for a date that is after the date to which the qualification relates,
 - (b) the balance sheet referred to in paragraph (a) is accompanied by an auditor's report that does not express a qualification of opinion relating to closing inventory, and
 - (c) the issuer has not previously filed financial statements for the same entity accompanied by an auditor's report for a prior year that expressed a qualification of opinion relating to inventory.
26. If an issuer has, or will account for a business referred to in paragraph 16 using the equity method, then financial statements for a business required by paragraphs 16 to 24 are not required to be included if the offering document includes disclosure for the periods for which financial statements are otherwise required under paragraphs 16 to 24 that:
- (a) summarizes information as to the aggregated amounts of assets, liabilities, revenue and profit or loss of the business, and
 - (b) describes the issuer's proportionate interest in the business and any contingent issuance of securities by the business that might significantly affect the issuer's share of profit or loss.
27. (a) The financial information referred to in paragraph 26 may be unaudited or be derived from unaudited financial statements, provided that all of the following are satisfied:
- (i) the relevant financial information presented, or from which financial information has been derived, for the most recently completed financial year have been subject to a review, and
 - (ii) the review report does not include a modified conclusion, and:
 - (A) identifies the financial statements that were subject to the review, including identification of the title of each of the statements contained in the set of financial statements and the date and period covered by each financial statement;
 - (B) is in the form specified by the standard for a review; and
 - (C) refers to IFRS or the modified regulatory accounting principles as the applicable financial reporting framework.

All unaudited financial statements and unaudited comparatives must be clearly labelled as unaudited.

28. The financial information provided under paragraph 26 for any completed financial year that has not been audited need not be accompanied by the review report but the issuer must do both of the following:
- (a) provide disclosure to accompany the financial statements that the financial information presented has not been audited and is not derived from audited financial statements, and
 - (b) in respect of financial information, other than financial statements, provide 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.

29. Financial statements relating to the acquisition or proposed acquisition of a business that is an interest in an oil and gas property are not required to be included in an offering document if both of the following apply:
- (a) the acquisition is not of securities of another issuer, unless the vendor transferred the business to the other issuer and that other issuer
 - (i) was created for the sole purpose of facilitating the acquisition; and
 - (ii) other than assets or operations relating to the transferred business, has no
 - (A) substantial assets; or
 - (B) operating history; and
 - (b) the issuer is unable to provide the financial statements in respect of the significant acquisition otherwise required because those financial statements do not exist or the issuer does not have access to those financial statements, and the following apply:
 - (i) the acquisition was not or will not be a reverse take-over, and
 - (ii) the following apply:
 - (A) the offering document includes an operating statement for the business or related businesses for each of the financial periods for which financial statements would, but for this section, be required under paragraph 19 prepared in accordance with subsection 3.11(5) of National Instrument 52-107,
 - (B) the operating statement for the most recently completed financial period referred to in subparagraph 19(b)(i) is audited or subject to a review,
 - (C) the offering document includes a description of the property or properties and the interest acquired by the issuer,
 - (D) the offering document includes information with respect to the estimated reserves and related future net revenue attributable to the business, the material assumptions used in preparing the estimates and the identity and relationship to the issuer or to the seller of the person who prepared the estimates,
 - (E) the offering document includes actual production volumes of the property for the most recently completed year, and
 - (F) the offering document includes estimated production volumes of the property for the first year reflected in the estimate disclosed under clause (E).
30. Financial statements for a business that is an interest in an oil and gas property, or for the acquisition or proposed acquisition by an issuer of an oil and gas property, are not required to be audited or subject to a review if during the 12 months preceding the acquisition date or the proposed acquisition date, the average daily production of the property is less than 20% of the average daily production of the seller for the same or similar periods and:

- (a) despite reasonable efforts during the purchase negotiations, the issuer was prohibited from including in the purchase agreement the rights to obtain an operating statement of the property that was audited or subject to a review,
- (b) the purchase agreement includes representations and warranties by the seller that the amounts presented in the operating statement agree to the seller's books and records, and
- (c) the offering document discloses
 - (i) that the issuer was unable to obtain an operating statement that was audited or subject to a review,
 - (ii) the reasons for that inability,
 - (iii) the fact that the purchase agreement includes the representations and warranties referred to in subparagraph (ii), and
 - (iv) that the results presented in the operating statements may have been materially different if the statements had been audited or subject to a review.

Annex 1
FORM 45-539F1
SMALL BUSINESS OFFERING DOCUMENT

GENERAL INSTRUCTIONS FOR ISSUER – DO NOT INCLUDE THIS PAGE WHEN PROVIDING TO THE PURCHASER:

- (1) *An offering document prepared using this form can only be used for a distribution of securities under Alberta Securities Commission Blanket Order 45-539 Small Business Financing and Financial and Consumer Affairs Authority of Saskatchewan General Order 45-539 Small Business Financing (each an **Order**).*
- (2) *The offering document and all amendments to it must be submitted through the System for Electronic Document Analysis and Retrieval in accordance with National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR), no later than the 10th day after the closing of the distribution.*
- (3) *The offering document must be certified by an individual authorized to act on behalf of the issuer.*
- (4) *Complete this offering document so that it is easy to read and understand. Be concise and use clear, plain language. Avoid technical terms.*
- (5) *Information provided must be fair and balanced and not untrue or misleading.*
- (6) *Complete all boxes in this form or indicate N/A where appropriate. For Schedule A, if required, conform as closely as possible to the format set out in this form. Address the items in the order set out below. No variation of headings, numbering or information set out in the form is allowed and all are to be displayed as shown.*
- (7) *Various terms used in this form are defined in Alberta and Saskatchewan securities laws.*
- (8) *The offering document must be provided to each purchaser before the purchaser signs the subscription agreement. The offering document must not contain a misrepresentation. A misrepresentation means an untrue statement of material fact or an omission to state a material fact that is required to be stated, or necessary to prevent a statement that is made from being false or misleading in the circumstances in which it was made. If the information contained in the offering document becomes untrue or misleading the offering document must be amended and purchasers must be given the amended offering document before their subscription can be accepted.*
- (9) *If any forward-looking information (e.g., projected sales or anticipated contracts) that could reasonably be expected to be material to a purchaser's decision to invest is included in the offering document identify it and include proximate to it (i) reasonable cautionary language identifying material factors that could cause actual results to differ materially from the conclusion, forecast or projection in the forward-looking information, (ii) states the assumptions or material factors used to develop the forward looking information and (iii) states that the issuer believes it has a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the forward-looking information.*

(Full legal name of issuer as set forth in the organizational documents)
(Any other names the issuer operates under)

No securities regulatory authority or regulator has reviewed or approved the merits of these securities or reviewed this offering document. Any representation to the contrary is an offence. This is a risky investment. See Item 6 for a discussion of the risk factors that management believes present the most substantial risks to you.

You have 2 business days to cancel your agreement to purchase these securities. If there is a misrepresentation in this offering document, you also have a right to sue for damages or to cancel the agreement. See Item 10.

The Offering

Table with 2 columns: Type of Securities Offered, Price Per Security. Rows include Common shares, Preference Shares, Debt Securities, Units of a Limited Partnership, Membership Shares, and Securities Convertible or Exchangeable.

Description of material terms of securities offered: e.g., exercise or conversion price or formula, expiry date, interest rates, preferences to dividends or assets on dissolution, redemption rights and restrictions, tag-along rights, pre-emptive rights, rights to participate in future financings, super voting rights.

Sales Commission, if any: \$Click or tap here to enter text.

Offering Amount: Minimum: \$ Click or tap here to enter text. Maximum: \$ Click or tap here to enter text.

The minimum offering deadline in this offering is: This date cannot be later than 120 days after the date the offering document is first delivered to a purchaser.

Head Office Address of Issuer

Street Address Line 1, Street Address Line 2, City, Province, Postal Code, Website, Phone. Each field includes a 'Click or tap here to enter text.' prompt.

Person to Contact at the Issuer with Respect to the Offering (officer, employee or agent of the issuer who is able to answer questions from purchasers or staff of the Alberta Securities Commission or the Financial or Consumer Affairs Authority of Saskatchewan)

Surname/Family Name Click or tap here to enter text.	Given Name Click or tap here to enter text.	
Business Address Click or tap here to enter text.	Position with Issuer Click or tap here to enter text.	
City Click or tap here to enter text.	Province Click or tap here to enter text.	Postal Code Click or tap here to enter text.
Phone Click or tap here to enter text.	Email Click or tap here to enter text.	

The date of this offering document is Click or tap to enter a date.

Item 1: Use of Available Funds

(1) Available Funds - The funds available to the issuer as a result of the offering are as follows:

		Assuming minimum offering	Assuming maximum offering
A.	Amount to be raised by this offering	\$ Click or tap here to enter text.	\$ Click or tap here to enter text.
B.	Selling commissions and fees	\$ Click or tap here to enter text.	\$ Click or tap here to enter text.
C.	Estimated offering costs (including legal and accounting)	\$ Click or tap here to enter text.	\$ Click or tap here to enter text.
D.	Total Available funds: $D = A - (B+C)$	\$ Click or tap here to enter text.	\$ Click or tap here to enter text.

(2) Use of Available Funds -The following table details how the issuer proposes to use the available funds.

Description of intended use of available funds listed in order of priority	Assuming minimum offering	Assuming maximum offering
<i>Provide enough detail to allow purchasers to make an informed investment decision. If any of the available funds will be paid to a related party, disclose in the table the name of the related party, the relationship to the issuer, and the amount. If more than 10% of the available funds will be used by the issuer to pay debt and the issuer incurred the debt within the two preceding financial years, describe why the debt was incurred.</i>	\$ Click or tap here to enter text.	\$ Click or tap here to enter text.
Click or tap here to enter text.	\$ Click or tap here to enter text.	\$ Click or tap here to enter text.

Total:	\$ The total should equal to D in the Available Funds table above.	\$ The total should equal to D in the Available Funds table above.
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Other comments on use of available funds:

Provide any additional information about the use of available funds that may be necessary to ensure that the information provided in the tables is fair and balanced and not untrue or misleading .

Item 2: Business of the Issuer and Other Information and Transactions

(1) Structure – Details of the organization of the issuer are as follows:

Legal structure of the issuer: (e.g., corporation, partnership, trust, or unincorporated sole proprietor)	Click or tap here to enter text.
Statute and jurisdiction under which the issuer is incorporated, continued or organized	Click or tap here to enter text.
Date of incorporation, continuance or organization of the issuer	Click or tap here to enter text.
How a purchaser can view the issuer’s organizational documents (e.g., articles of incorporation, partnership agreement or shareholder agreement)	Click or tap here to enter text.

(2) The Business - The material aspects of the issuer’s business are as follows:

The information provided must be balanced and fair and not misleading or untrue. It should not over-emphasize the positive and downplay the negative. If the issuer has future plans or goals but the reasonableness of those plans or goals cannot yet be appropriately analyzed or assessed or, given the stage of development of the business, there can be little or no assurance that the plans or goals are achievable, the risks associated with being able to achieve those plans or goals should be made clear.

Enough details should be provided so a purchaser can clearly understand the issuer’s business, what it currently does and intends to do.

Information that may be important to purchasers includes the following:

- Does or will the issuer build, design or develop something? Sell something produced by itself? By others? Provide a service?
- Does the issuer have business premises from which it can operate its business?
- How many employees does the issuer have? Need?
- Has the issuer entered any contracts that are important to its business?
- Are there factors that make the issuer’s business different from its competitors?
- What milestones has the issuer already reached e.g., developed a prototype, signed a distribution agreement, leased premises, obtained a bank loan or other significant financing, generated sales, generated a profit?
- What milestones does the issuer hope to achieve in the next couple of years e.g., Complete testing? Find a manufacturer? Commence a marketing campaign? Buy inventory? What is the proposed timeline for achieving each of the milestones?
- What are the major hurdles that the issuer expects to face in achieving its milestones?
- If the issuer is offering shares or similar securities to purchasers, is there a long-term goal that would provide an "exit-opportunity" for purchasers e.g., the issuer hopes to eventually become a reporting issuer? Be bought out/taken over by a larger company.

(NOTE: Unless certain conditions are met, it is a breach of securities laws to state that an issuer will be or will apply to be traded on an exchange or quoted on a quotation and trade reporting system.)

The forecasts and predictions of an early-stage business are particularly difficult to objectively analyze or confirm. Carefully consider whether any forecasts and predictions presented appear reasonable. Forward-looking information presented is required to be reasonable but it is the opinion of the issuer and actual results may be very different.

- (a) Non-resource issuer: Principal products or services, operations, market, marketing plans and the issuer's current and prospective competitors

Click or tap here to enter text.

- (b) Resource issuer: Principal properties (including interest held), the stage of development, reserves, geology, operations, production and mineral reserves or mineral resources being explored or developed

Refer to National Instrument 43-101 Standards of Disclosure for Mineral Projects when disclosing scientific or technical information for a mineral project of the issuer. Refer to Part 4 and Part 5 of National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities for oil and gas issuers disclosing information about their oil and gas activities. Note: Disclosure of reserves or resources that is not consistent with the reserves and resources terminology and categories set out in the Canadian Oil and Gas Evaluation Handbook may be misleading.

- (c) Organizational chart: If the issuer has any subsidiaries, affiliates, or related parties, and the relationships with those parties would be important to a purchaser in understanding the issuer's business, the organizational chart of the issuer and a description of the relationships between them are as follows:

Click or tap here to enter text.

- (d) Issuer that is vehicle for collective investment: If the issuer is a vehicle for collective investment such as an opportunity development cooperative, the information that the issuer will collect regarding the business of each underlying investment and the information that will be provided to a purchaser regarding the business of each underlying investment is as follows:

Click or tap here to enter text.

- (3) **Material Investments** – If at the time of the distribution the issuer has identified a person or company that a reasonable person would believe the likelihood is high that the issuer will direct by loan or investment, at least 50% of the aggregate gross proceeds raised by the issuer under an Order in the preceding 12 month period, the disclosure specified by Items 2, 3, 4(1), 4(2), 6 and 10 of this Form for that other issuer, as if that other issuer were the issuer preparing the offering document, is as follows:

Click or tap here to enter text.

(4) **Material Contracts** – The details of each contract that the issuer or a related party to the issuer is currently a party to, that is material to the issuer, are as follows:

Name of Material Contract	Parties to the contract	Date of contract	If the contract is with a related party, the relationship to the issuer	Material terms of the contract (or provide details on how prospective purchasers may obtain reasonable access to the contract)
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap to enter a date.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap to enter a date.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap to enter a date.	Click or tap here to enter text.	Click or tap here to enter text.

Item 3: Directors and Management

(1) **Director and management experience** - The following table provides the specified information for each director, officer, founder (as defined in an Order) and control person of the issuer.

Full legal name, municipality of residence, and position at issuer	Principal occupation for the last five years	Expertise, education, and experience that is relevant to the issuer's business	Number and type of securities of the issuer held after completion of minimum offering Indicate the date securities were acquired and the price paid	Number and type of securities held after completion of maximum offering Indicate the date securities were acquired and the price paid
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.

(2) **Penalties, Sanctions, Bankruptcy, Insolvency and Criminal or Quasi-Criminal Matters** – If the issuer or any director, officer, founder or control person of the issuer

- (a) has ever, pled guilty to or been found guilty of
 - (i) a summary conviction or indictable offence under the *Criminal Code* (R.S.C., 1985, c. C-46) (Canada),
 - (ii) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction, which includes offences under the *Income Tax Act* (R.S.C. 1985, c. 1 (5th Suppl.)), the *Immigration and Refugee Protection Act* (R.S.C., 2001, c. 27) and the tax, immigration, drugs, firearms, money laundering or securities legislation of any province or territory of Canada or of a foreign jurisdiction,
 - (iii) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein, or
 - (iv) an offence under the criminal legislation of any other foreign jurisdiction,

- (b) is or has been the subject of an order (cease trade or otherwise), judgment, decree, sanction, or administrative penalty imposed by a government agency, administrative agency, self-regulatory organization, civil court, or administrative court of Canada or a foreign jurisdiction in the last 10 years related to his or her involvement in any type of business, securities, insurance or banking activity,
- (c) is or has been the subject of a bankruptcy or insolvency proceeding, or
- (d) is a director or officer of an issuer that is or has been subject to a proceeding described in (a), (b) or (c) above

the details of such penalties, sanctions, bankruptcy, insolvency or criminal or quasi-criminal matters are as follows:

Click or tap here to enter text.

(3) Compensation to directors and officers

The following table sets out the aggregate compensation

- (a) paid by the issuer or a related party of the issuer to the directors and officers of the issuer, for services to the issuer, in the most recently completed financial year; and
- (b) anticipated to be paid by the issuer or a related party of the issuer to the directors and officers of the issuer, for services to the issuer, in the current financial year.

Aggregate compensation paid for most recently completed financial year	Aggregate compensation anticipated to be paid in the current financial year
\$ Click or tap here to enter text.	\$ Click or tap here to enter text.

Item 4: Capital Structure

(1) Outstanding Securities - The number and type of securities of the issuer outstanding as at the date of the offering document, other than long-term debt securities disclosed in Item 4(2), are set forth in the following table. If there are securities outstanding other than the class of securities being offered, they are described in the table.

Type of outstanding securities	Description of material terms (e.g., exercise or conversion price or formula, expiry date, interest rates, preferences to dividends or assets on dissolution, redemption rights and restrictions, tag-along rights, pre-emptive rights, rights to participate in future financings, super voting rights)	Number outstanding
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.

(2) **Long term debt** – Details of the outstanding debt of the issuer for which all or a portion is due, or may be outstanding, more than 12 months from the date of the offering document are set forth in the following table.

Description of debt including: <ul style="list-style-type: none"> • whether secured • any conversion terms • whether the debt is owed to a director, officer or related party and identify the related party 	Interest rate	Repayment terms	Amount outstanding at a date not more than 30 days before the date of the offering document	Amounts due within 12 months of the date of the offering document	If the securities being offered are debt securities, amount of the debt that will be outstanding after both the minimum and maximum offering.
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Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	\$ Click or tap here to enter text.	\$ Click or tap here to enter text.	After minimum: \$ Click or tap here to enter text. After maximum: \$ Click or tap here to enter text.

(3) **Prior Sales** – All securities of the issuer of the class being offered under this offering document (or convertible or exchangeable into the class being offered under this offering document) that have been issued within the 12 months prior to the offering document are set out in the following table.

Date securities issued	Number of securities issued	Price per security	Total funds received or, if applicable, description of asset or services received
Click or tap to enter a date.	Click or tap here to enter text.	\$ Click or tap here to enter text.	\$ Click or tap here to enter text.
Click or tap to enter a date.	Click or tap here to enter text.	\$ Click or tap here to enter text.	\$ Click or tap here to enter text.
Click or tap to enter a date.	Click or tap here to enter text.	\$ Click or tap here to enter text.	\$ Click or tap here to enter text.

Item 5: Details of the Offering

(1) **Terms of Securities Offered** – The securities being offered have the following rights, restrictions, material terms and conditions:

- Voting rights or restrictions on voting - Describe voting rights.
- Dividends, interest or distribution policy - Describe any right to receive dividends, interest or distributions.
- Rights on dissolution - Describe rights.
- Conversion/exercise rights, including conversion/exercise price and date of expiry - Describe what each security is convertible into.
- Right to redeem or retract - Describe rights.
- Rights to participate in future financings - Describe rights.
- Other - Describe rights, restrictions or material terms and conditions.

[Guidance: Only "eligible securities" as defined in an Order can be distributed under an Order. The information required to address Item 5(1) is usually found in the organizing documents of the issuer referred to in Item 2(1).]

True or False - **The available funds following the minimum offering will provide sufficient funds to accomplish all of the proposed objectives for the next 12 months.**

(2) **Superior Rights** - True or False - Outstanding securities will be superior to those being offered, e.g., because of priority to dividends, priority in insolvency, greater voting rights or rights to participate in future financings or acquisitions. **See: Item 4 Capital Structure:**

(3) **Process for Subscribing**

(a) To subscribe for securities, a purchaser must follow the following procedure:

Include details on how payment may be made.

(b) The period during which the payment will be held in trust for the purchaser is as follows:

The payment must be held in trust for at least the length of the purchaser's two day cancellation right described in Item 9.

(c) The following conditions must be met prior to closing, including any receipt of additional funds from other sources:

Click or tap here to enter text.

(d) The date by which the minimum offering must be raised is as follows:

The date cannot be later than 120 days after the date this offering document is first delivered to a purchaser.

(e) The date that funds will be returned to purchasers if the minimum offering is not reached is as follows:

A date that is as soon as reasonably possible after the date that is 120 days after the date this offering document is first delivered to a purchaser.

(4) **Commissions and Other Selling Compensation** – The details of any commission, corporate finance fee or finder's fee or any other similar compensation in connection with the offering that has or will be paid to the persons or companies are as follows:

	If a commission is being paid, the percentage that the commission will represent of the gross proceeds of the offering (assuming both the minimum and any maximum offering)	Details of any broker's warrants or agent's option (including number of securities under option, exercise price and expiry date)
<i>Description of type of compensation and the estimated amount of each.</i>	Minimum offering: %Click or tap here to enter text. Maximum offering: %Click or tap here to enter text.	Click or tap here to enter text.
<i>Description of type of compensation and the estimated amount of each.</i>	Minimum offering: %Click or tap here to enter text. Maximum offering: %Click or tap here to enter text.	Click or tap here to enter text.

(5) Income Tax Consequences and RRSP Eligibility –

Not all securities are eligible for investment in a registered plan, like a registered retirement savings plan (RRSP). Even if the securities are eligible for such plans, the investment is still risky. It is not generally recommended to use funds needed for retirement to make risky investments.

Other comments on details of the offering:

Provide any additional information about the details of the offering that may be necessary to ensure that the information provided is fair and balanced and not untrue or misleading .

Item 6: Risk Factors

The main risks for purchasers in investing in the issuer's business are as follows (*check all that apply*):

Investment Risk - risks that are specific to the securities being offered

- the purchase price is arbitrary and there is no independent valuation
- a purchaser may experience an immediate dilution of their investment because securities previously issued were issued for nominal consideration
- resale restrictions
- no market in which to resell the securities and no near term "exit strategy" for purchasers
- for redeemable securities, conditions or restrictions on redemption
- insufficient funds to pay dividends or interest or redeem securities
- for debt securities being subordinate to other debt
- if the issuer is investing in other issuers, the risk to a purchaser in not having voting rights or rights to the assets of that other issuer
- other. Specify: Click or tap here to enter text.

Issuer Risk - risks that are specific to the issuer

- limited business experience of management

- the need to raise more funds to accomplish the issuer's business objectives
- no history or a limited history of revenue or profits
- lack of specific technical expertise
- dependence on key employees
- reliance on key suppliers or customers
- management's regulatory and business track record
- existing or threatened lawsuits
- other. Specify: [Click or tap here to enter text.](#)

Industry Risk - risks faced by the issuer because of the industry in which it operates

- significant regulatory requirements or approvals required
- environmental, health and safety issues
- competition, including from more established businesses

Other Risks

Specify: [Click or tap here to enter text.](#)

Other comments on risks:

The disclosure of risk factors must be fair and balanced and not misleading or untrue. Issuers may indicate how they hope to mitigate risks, but should not deemphasize the risks by including any excessive caveats or conditions.

Item 7: Reporting Obligations

Check the statement that applies:

- The issuer will provide ongoing disclosure to purchasers, e.g., annual financial statements or an information circular/proxy statements as required by an Order, corporate law, its constating documents (e.g., articles of incorporation or bylaws) or otherwise.

The ongoing disclosure to be provided is: [Click or tap here to enter text.](#)

- The issuer is **not** required to provide any documents to the purchasers on an annual or on-going basis.

[Guidance: An Order may require the issuer to provide annual financial statements to its investors. Further, corporate legislation in many jurisdictions requires issuers with more than a specified number of shareholders to prepare and disseminate audited annual financial statements. Such issuers may also be required to hold annual meetings of shareholders and provide certain specified disclosure in an information circular. Refer to applicable corporate law.]

Item 8: Resale Restrictions

The securities you are purchasing are subject to resale restrictions that will continue indefinitely. Unless the issuer becomes a reporting issuer (public company) they can only legally be resold to a very limited number of people under a prospectus or under exemptions from the prospectus requirement. Even if they can be legally resold, you may not be able to identify a buyer. You may never be able to resell the securities.

Item 9: Investors' Rights

You have 2 business days to change your mind about this investment.

You also have a right to sue if there is a misrepresentation in the offering document. See below for further details.

Two-day cancellation right - If you agree to make an investment, you have a short period in which to change your mind, for any reason, and cancel your agreement. To do so, you must send a written notice to the issuer by not later than midnight on the 2nd business day after signing the agreement to purchase the securities.

Right of action in the event of a misrepresentation – If you invest and find that there is a misrepresentation in the offering document, including all amendments to that document, you have a statutory right to either (a) sue the issuer to cancel your agreement or (b) sue the issuer, its directors, and each person or company who has signed the offering document for damages.

This right to sue is available to you whether or not you relied on the misrepresentation. However, there are various defences available to the persons or companies that you have a right to sue. In particular, they have a defence if you knew of the misrepresentation when you purchased the securities.

If you intend to rely on these rights, you must do so within strict time limits. Consult a lawyer! If you intend to sue to cancel your agreement because of a misrepresentation you must start the lawsuit no more than 180 days from the day of the transaction giving rise to the cause of action. If you intend to sue for damages you must start the lawsuit within the earlier of (a) 180 days from the day of first having knowledge of the facts giving rise to the cause of action, and (b) 3 years from the day of the transaction giving rise to the cause of action.

Item 10: Financial Statements

Check the statement that applies:

- The issuer is not required to include financial statements with the offering document and none have been voluntarily included.
- Financial statements have been included with the offering document and they are not audited.

Item 11: Date and Certificate

Dated: *Insert the date the certificate page of the offering document is signed.*

This offering document does not contain a misrepresentation.

Signature of issuer: *The offering document must be signed by an individual authorized to sign on behalf of the issuer.*

Name: Click or tap here to enter text.

Title: Click or tap here to enter text.

Schedule A *Financial Statement Instructions*
to Annex 1
FORM 45-539F1
SMALL BUSINESS OFFERING DOCUMENT

The instructions in this Schedule A apply if the issuer is required to include financial statements in the offering document or is voluntarily providing financial statements.

General

1. National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) requires that all financial statements included in an offering memorandum or document that is filed with a securities regulatory authority or regulator be prepared in accordance with Canadian generally accepted accounting principles (**GAAP**) applicable to publicly accountable enterprises. An Order provides an exemption from certain provisions of NI 52-107.
 - (a) An issuer preparing an offering document under an Order must prepare its financial statements either in accordance with
 - (i) section 3.2 of NI 52-107, or
 - (ii) Part II of the CPA Canada Handbook (the **handbook**), as amended from time to time applied to an issuer as if it were a private enterprise provided that the financial statements consolidate any subsidiaries of the issuer and account for any significantly influenced investees and joint ventures using the equity method (the **modified regulatory accounting principles**) and paragraphs 3 to 30 of this Schedule A.
 - (b) The financial statements (excluding interim financial statements) included in the offering document must either be
 - (i) audited in accordance with section 3.3 of NI 52-107, or
 - (ii) if they have not been audited, subject to a review in accordance with the standard for engagements to review historical financial statements, as specified in the handbook (a **review**) and prepared in accordance with paragraphs 3 to 30 of this Schedule A.
2. The issuer must include a statement proximate to any financial statements:
 - (a) if prepared in accordance with the modified regulatory accounting principles, as follows:

“These financial statements are prepared in accordance with the modified regulatory accounting principles specified in [Alberta Securities Commission Blanket Order 45-539 *Small Business Financing* and/or Financial and Consumer Affairs Authority of Saskatchewan General Order 45-539 *Small Business Financing*] and as such, [name of issuer or other term used to refer to issuer] is permitted to rather than providing financial statements prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises, provide financial statements prepared in accordance with GAAP for private enterprises, provided that any subsidiaries are consolidated and accounted for using the equity method. The recognition, measurement and disclosure requirements of modified regulatory accounting principles differ from those of Canadian GAAP applicable to publicly accountable enterprises.”
 - (b) if subject to a review rather than an audit, as follows:

“These financial statements, are prepared in accordance with [Alberta Securities Commission Blanket Order 45-539 *Small Business Financing* and/or Financial and Consumer Affairs Authority of Saskatchewan General Order 45-539 *Small Business Financing*] and as such, [name of issuer or other term used to refer to issuer] is permitted to rather than providing audited annual financial statements, provide annual financial statements that have been reviewed by a certified public accountant. A review of annual financial statements by a certified public accountant provides limited assurance and lacks the level of assurance for audited annual financial statements.”

- (c) if audited by an audit firm that has not entered into a participation agreement with the Canadian Public Accountability Board, as follows:

“[Name of audit firm] audited the financial statements of [name of issuer or other term used to refer to issuer] for the year ended [state the period of the most recent financial statements included in the prospectus] and issued an auditor’s report dated [state the date of the auditor’s report for the relevant financial statements]. As at [state the date of the auditor’s report for the relevant financial statements], [name of audit firm] was not required by securities legislation to enter, and had not entered, into a participation agreement with the Canadian Public Accountability Board. An audit firm that enters into a participation agreement is subject to the oversight program of the Canadian Public Accountability Board.”

Issuer Financial Statements

3. If the issuer has not completed one financial year or its first financial year end is less than 120 days from the date of the offering document, include in the offering document financial statements of the issuer consisting of:
 - (a) an income statement, a statement of retained earnings and a cash flow statement for the period from inception to a date not more than 90 days before the date of the offering document,
 - (b) a balance sheet as at the end of the period referred to in paragraph (a), and
 - (c) notes to the financial statements.
4. If the issuer has completed one or more financial years, include in the offering document annual financial statements of the issuer consisting of:
 - (a) an income statement, a statement of retained earnings and a cash flow statement for
 - (i) the most recently completed financial year that ended more than 120 days before the date of the offering document, and
 - (ii) the financial year immediately preceding the financial year in subparagraph (a)(i), if any, and
 - (b) a balance sheet as at the end of each of the periods referred to in paragraph (a), and
 - (c) notes to the financial statements.
5. If an issuer presents the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the income statement referred to in paragraph 4.
6. If the issuer has completed one or more financial years, include in the offering document interim financial statements of the issuer comprised of:

- (a) an income statement, a statement of retained earnings and a cash flow statement for the most recently completed interim period that ended
 - (i) more than 60 days before the date of the offering document, and
 - (ii) after the year-end date of the financial statements required under subparagraph 4(a)(i),
 - (b) an income statement, a statement of retained earnings and a cash flow statement for the corresponding period in the immediately preceding financial year, if any, and
 - (c) a balance sheet as at the end of the period required by subparagraph (a)(i) and the end of the immediately preceding financial year.
7. If an issuer presents the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the income statement referred to in paragraph 6.
8. An issuer is not required to include the comparative financial information for the period in subparagraph 4(a)(ii) in an offering document if the issuer includes financial statements for a financial year ended less than 120 days before the date of the offering document.
9. The term "interim period" has the meaning set out in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) except for an investment fund, in which case it has the meaning in National Instrument 81-106 *Investment Fund Continuous Disclosure*.
10. The comparative financial information required under paragraphs 6(b) and 6(c) may be omitted if the issuer has not previously prepared financial statements in accordance with its current or, if applicable, its previous GAAP.
11. (a) If any of the financial statements required by paragraphs 3, 4 or subparagraph 14(a) have been audited, the auditor's report must be included in the offering document.
- (b) The financial statements required by paragraph 4 and the financial information contained in the offering document may be unaudited or derived from unaudited 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 as defined in the Canadian Standard for Review Engagements (CSRE) 2400, *Engagements to Review Historical Financial Statements* (**modified conclusion**), and:
 - (A) identifies the financial statements that were subject to the review, including identification of the title of each of the statements contained in the set of financial statements and the date and period covered by each financial statement,
 - (B) is in the form specified by the standard for a review, and
 - (C) refers to IFRS or the modified regulatory accounting principles as the applicable financial reporting framework.
12. The financial statements required under paragraph 6 and the comparative financial information required by paragraph 4 may be unaudited; however, if those financial statements or comparative

financial information have been audited, the auditor's report must be included in the offering document.

13. All unaudited financial statements and unaudited comparatives must be clearly labelled as unaudited.

14. If the distribution is ongoing, the issuer must do the following:

- (a) if the offering document does not contain annual financial statements for the issuer's most recently completed financial year, the issuer must do the following:
 - (i) amend the offering document to include the annual financial statements as soon as the issuer has approved the financial statements, but in any event no later than the 120th day following the financial year end;
 - (ii) present the offering document and the annual financial statements in accordance with the instructions in paragraphs 1 to 24 and, for that purpose, the reference to the financial year in subparagraph 4(a)(i) shall mean the issuer's most recently completed financial year;
- (b) if the offering document does not contain interim financial statements for the issuer's most recently completed 6-month period, the issuer must do the following:
 - (i) amend the offering document to include the interim financial statements no later than the 60th day following the end of the period;
 - (ii) present the offering document and the interim financial statements in accordance with the instructions in paragraphs 1 to 24 and, for that purpose, the reference to the interim period in paragraph 6(a) shall mean the issuer's most recently completed 6-month period.

15. If the issuer has included in its offering document interim financial statements for its most recently completed 9-month period, paragraph 14(b) does not apply.

Financial Statements of Businesses Acquired or to be Acquired

16. If the issuer

- (a) has acquired a business during the past 2 years and the financial statements of the issuer included in the offering document do not include the results of the acquired business for 9 consecutive months, or
 - (b) is proposing to acquire a business and the acquisition has progressed to a state where a reasonable person would believe that the likelihood of the acquisition being completed is high,
- include the financial statements specified in paragraph 19 for the business if either of the tests in paragraph 17 is met, irrespective of how the issuer accounts, or will account, for the acquisition.

17. Include the financial statements specified in paragraph 19 for a business referred to in paragraph 16 if either:

- (a) the issuer's proportionate share of the consolidated assets of the business exceeds 100% of the consolidated assets of the issuer calculated using the annual financial statements of each of the issuer and the business for the most recently completed financial year of each that ended before the acquisition date or, for a proposed acquisition, the date of the offering document or

- (b) the issuer's consolidated investments in and advances to the business as at the acquisition date or the proposed date of acquisition exceeds 100% of the consolidated assets of the issuer, excluding any investments in or advances to the business, as at the last day of the issuer's most recently completed financial year that ended before the date of acquisition or the date of the offering document for a proposed acquisition. For information about how to perform the investment test in this paragraph, please refer to subsections 8.3(4.1) and (4.2) of NI 51-102. Additional guidance may be found in the companion policy to NI 51-102.
18. If an issuer or a business has not yet completed a financial year, or its first financial year ended within 120 days of the offering document date, use the financial statements referred to in paragraph 3 to make the calculations in paragraph 17.
19. If under paragraph 17 you must include in the offering document financial statements for a business, the financial statements must include:
- (a) If the business has not completed one financial year or its first financial year end is less than 120 days from the date of the offering document
 - (i) an income statement, a statement of retained earnings and a cash flow statement
 - (A) for the period from inception to a date not more than 90 days before the date of the offering document, or
 - (B) if the date of acquisition precedes the ending date of the period referred to in clause (A), for the period from inception to the acquisition date or a date not more than 45 days before the acquisition date,
 - (ii) a balance sheet dated as at the end of the period referred to in subparagraph (i), and
 - (iii) notes to the financial statements.
 - (b) If the business has completed one or more financial years include
 - (i) annual financial statements comprised of:
 - (A) an income statement, a statement of retained earnings and a cash flow statement for the following annual periods:
 - i. the most recently completed financial year that ended before the acquisition date and more than 120 days before the date of the offering document, and
 - ii. the financial year immediately preceding the most recently completed financial year specified in subclause i., if any,
 - (B) a balance sheet as at the end of each of the periods specified in clause (A),
 - (C) notes to the financial statements, and
 - (ii) an interim financial statement comprised of
 - (A) either
 - i. an income statement, a statement of retained earnings and a cash flow statement for the most recently completed year-to-date interim period ending on the last date of the interim period that ended before the acquisition date and more than 60 days before the date of the offering document and ended after the date of the financial statements required under subclause (i)(A)i., and

an an income statement, a statement of retained earnings and a cash flow statement for the 3 month period ending on the last date of the interim period that ended before the acquisition date and more than 60 days before the date of the offering document and ended after the date of the financial statements required under subclause (i)(A)i., or

ii. an income statement, a statement of retained earnings and a cash flow statement for the period from the first day after the financial year referred to in subparagraph (i) to a date before the acquisition date and after the period end in subclause (A)i.,

(B) an income statement, a statement of retained earnings and a cash flow statement for the corresponding period in the immediately preceding financial year, if any,

(C) a balance sheet as at the end of the period required by clause (A) and the end of the immediately preceding financial year, and

(D) notes to the financial statements.

Refer to paragraph 9 for the meaning of "interim period".

20. (a) If any of the financial statements required by paragraph 19(b)(i) have been audited, the auditor's report must be included in the offering document.

(b) The financial statements required by paragraph 19(b)(i) and the financial information contained in the offering document may be unaudited or derived from unaudited 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 statements that were subject to the review, including identification of the title of each of the statements contained in the set of financial statements and the date and period covered by each financial statement;

(B) is in the form specified by the standard for a review; and

(C) refers to IFRS or the modified regulatory accounting principles as the applicable financial reporting framework.

The financial statements required under paragraphs 19(a), subparagraph 19(b)(ii) and the comparative financial information required by subparagraph 19(b)(i) may be unaudited; however, if those financial statements or comparative financial information have been audited, the auditor's report must be included in the offering document.

All unaudited financial statements and unaudited comparatives must be clearly labelled as unaudited.

21. If the offering document does not contain financial statements for a business referred to in paragraph 16 for the business's most recently completed financial year that ended before the acquisition date and the distribution is ongoing, update the offering document to include those

financial statements when they are available, but in any event no later than the date 120 days following the year-end.

22. The term "business" should be evaluated in light of the facts and circumstances involved. Generally, a separate entity or a subsidiary or division of an entity is a business and, in certain circumstances, a lesser component of an entity may also constitute a business, whether or not the subject of the acquisition previously prepared financial statements. The subject of an acquisition should be considered a business where there is, or the issuer expects there will be, continuity of operations. The issuer should consider:
- (a) whether the nature of the revenue producing activity or potential revenue producing activity will remain generally the same after the acquisition, and
 - (b) whether any of the physical facilities, employees, marketing systems, sales forces, customers, operating rights, production techniques or trade names are acquired by the issuer instead of remaining with the vendor after the acquisition.

Reporting issuers are reminded that an acquisition may constitute the acquisition of a business for securities legislation purposes, even if the acquired set of activities or assets does not meet the definition of a "business" for accounting purposes.

23. If a transaction or a proposed transaction for which the likelihood of the transaction being completed is high has been or will be a reverse takeover, include financial statements for the legal subsidiary in the offering document. The legal parent is considered to be the business acquired. Paragraph 16 may also require financial statements of the legal parent.
24. An issuer satisfies the requirements in paragraph 19 if the issuer includes in the offering document the financial statements required in a business acquisition report under NI 51-102.

Financial Statement Exemptions

25. Notwithstanding the requirements in subparagraph 3.3(1)(a)(i) of NI 52-107, if an auditor's report accompanies financial statements of an issuer or a business contained in an offering document, it may express a qualification of opinion relating to inventory if
- (a) the issuer includes in the offering document a balance sheet that is for a date that is after the date to which the qualification relates,
 - (b) the balance sheet referred to in paragraph (a) is accompanied by an auditor's report that does not express a qualification of opinion relating to closing inventory, and
 - (c) the issuer has not previously filed financial statements for the same entity accompanied by an auditor's report for a prior year that expressed a qualification of opinion relating to inventory.
26. If an issuer has, or will account for a business referred to in paragraph 16 using the equity method, then financial statements for a business required by paragraphs 16 to 24 are not required to be included if the offering document includes disclosure for the periods for which financial statements are otherwise required under paragraphs 16 to 24 that:
- (a) summarizes information as to the aggregated amounts of assets, liabilities, revenue and profit or loss of the business, and
 - (b) describes the issuer's proportionate interest in the business and any contingent issuance of securities by the business that might significantly affect the issuer's share of profit or loss.

27. (a) The financial information referred to in paragraph 26 may be unaudited or be derived from unaudited financial statements, provided that all of the following are satisfied:
- (i) the relevant financial information presented, or from which financial information has been derived, for the most recently completed financial year have been subject to a review, and
 - (ii) the review report does not include a modified conclusion, and:
 - (A) identifies the financial statements that were subject to the review, including identification of the title of each of the statements contained in the set of financial statements and the date and period covered by each financial statement;
 - (B) is in the form specified by the standard for a review; and
 - (C) refers to IFRS or the modified regulatory accounting principles as the applicable financial reporting framework.

All unaudited financial statements and unaudited comparatives must be clearly labelled as unaudited.

28. The financial information provided under paragraph 26 for any completed financial year that has not been audited need not be accompanied by the review report but the issuer must do both of the following:
- (a) provide disclosure to accompany the financial statements that the financial information presented has not been audited and is not derived from audited financial statements, and
 - (b) in respect of financial information, other than financial statements, provide 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.
29. Financial statements relating to the acquisition or proposed acquisition of a business that is an interest in an oil and gas property are not required to be included in an offering document if both of the following apply:
- (a) the acquisition is not of securities of another issuer, unless the vendor transferred the business to the other issuer and that other issuer
 - (i) was created for the sole purpose of facilitating the acquisition; and
 - (ii) other than assets or operations relating to the transferred business, has no
 - (A) substantial assets; or
 - (B) operating history; and
 - (b) the issuer is unable to provide the financial statements in respect of the significant acquisition otherwise required because those financial statements do not exist or the issuer does not have access to those financial statements, and the following apply:
 - (i) the acquisition was not or will not be a reverse take-over, and
 - (ii) the following apply:

- (A) the offering document includes an operating statement for the business or related businesses for each of the financial periods for which financial statements would, but for this section, be required under paragraph 19 prepared in accordance with subsection 3.11(5) of National Instrument 52-107,
 - (B) the operating statement for the most recently completed financial period referred to in subparagraph 19(b)(i) is audited or subject to a review,
 - (C) the offering document includes a description of the property or properties and the interest acquired by the issuer,
 - (D) the offering document includes information with respect to the estimated reserves and related future net revenue attributable to the business, the material assumptions used in preparing the estimates and the identity and relationship to the issuer or to the seller of the person who prepared the estimates,
 - (E) the offering document includes actual production volumes of the property for the most recently completed year, and
 - (F) the offering document includes estimated production volumes of the property for the first year reflected in the estimate disclosed under clause (E).
30. Financial statements for a business that is an interest in an oil and gas property, or for the acquisition or proposed acquisition by an issuer of an oil and gas property, are not required to be audited or subject to a review if during the 12 months preceding the acquisition date or the proposed acquisition date, the average daily production of the property is less than 20% of the average daily production of the seller for the same or similar periods and:
- (a) despite reasonable efforts during the purchase negotiations, the issuer was prohibited from including in the purchase agreement the rights to obtain an operating statement of the property that was audited or subject to a review,
 - (b) the purchase agreement includes representations and warranties by the seller that the amounts presented in the operating statement agree to the seller's books and records, and
 - (c) the offering document discloses
 - (i) that the issuer was unable to obtain an operating statement that was audited or subject to a review,
 - (ii) the reasons for that inability,
 - (iii) the fact that the purchase agreement includes the representations and warranties referred to in subparagraph (ii), and
 - (iv) that the results presented in the operating statements may have been materially different if the statements had been audited or subject to a review.

SMALL BUSINESS RISK ACKNOWLEDGEMENT

WARNING!
This investment is risky.
Don't invest unless you can afford to lose all the money you pay for this investment.

Instructions: The issuer must obtain a copy of this form from all purchasers. The form must be completed entirely by the purchaser, except that the issuer must complete the information in the section entitled "Additional information" on page 3.

Risks and other information	Your Initials	
	Yes	No
The purchaser must initial "yes" or "no" for each question. If the purchaser answers "no" to any of the questions, the purchaser cannot invest.		
<p>Risk of loss – You are buying "securities" (e.g., share, units, notes or debentures) of a start-up or other small business. A high percentage of start-up and 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>No income - 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 that you may not receive any income such as dividends or interest 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 never be able 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 on 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>		

Risks and other information	Your Initials	
	Yes	No
<p>The purchaser must initial “yes” or “no” for each question. If the purchaser answers “no” to any of the questions, the purchaser cannot invest.</p> <p>Limited Information - The issuer is selling these securities under an exemption from the prospectus requirement. The offering document you should have received likely does not contain the same disclosure that would be required to be provided to you by a prospectus. Further, after making an investment you may receive little or no information about the business or your investment.</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 not be required to make financial statements of the business available to you or may have relied upon a regulatory framework which allows it to prepare its financial statements in accordance with private enterprise 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 issuer may not be required to make financial statement available to you or, if financial statements are made available to you, they 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 document or the merits of these securities or the truthfulness or adequacy of the disclosure in the offering document.</p> <p>Do you understand that the merits of this investment have <u>not</u> been reviewed or approved by any securities regulatory agency 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, http://www.aretheyregistered.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, including an assessment of whether the investment is suitable for you.</p> <p>Do you understand the risks associated with purchasing securities from a salesperson who is not registered?</p>		
<p>Total investment – You are investing \$ _____ [Instruction: total consideration] in total; this includes any amount you are obliged to pay in future. _____ [Instruction: name of issuer] will pay \$ _____ [Instruction: amount of fee or commission] of this to _____ [Instruction: name of person selling the securities] as a fee or commission.</p>		

Your name and signature

By signing this form, you confirm that you have read this form and you understand the risks of making this investment as identified in this form.

First and last name (print):

Signature:

Date:

[Instruction: Sign 2 copies of this document. Keep one copy for your records.]

Additional information

The issuer must complete the required information in this section before giving the form to the purchaser.

You have 2 business days to cancel your purchase

To do so, send a notice to [*name of issuer*] stating that you want to cancel your purchase. You must send the notice before midnight on the 2nd business day after you sign the agreement to purchase the securities. You can send the notice by email or deliver it in person to [*name of issuer*] at its business address. Keep a copy of the notice for your records.

Issuer Name and Address:

E-mail:

You will receive an offering document

Read the offering document carefully because it has important information about the issuer and its securities. Keep the offering document because you have rights based on it. Talk to a lawyer for details about these rights.

**Classification of Purchasers and Investment Limits
under the Small Business Financing Exemption**

How you qualify to buy securities under ASC Blanket Order 45-539 *Small Business Financing* and/or FCAA General Order 45-539 *Small Business Financing* (each, an Order)

Initial the statement under A, B, C, D, E or F containing the criteria that applies to you. (You may initial more than one statement.) If you initial a statement under A, B, C or D you are not required to complete E or F.

A. You are 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. (You can find your net income before taxes on your personal income tax return.)	
	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 including any mortgage on your property.)	
	You are currently or were formerly registered under the securities legislation of a jurisdiction of Canada as a representative of an adviser or dealer registered under the securities legislation of a jurisdiction of Canada.	

B. You are a person described in section 2.5 [<i>Family, friends and business associates</i>] of NI 45-106, because:	Your initials
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Family, Friends and Business Associates</p> <p>You are:</p> <p>1) [<i>check all applicable boxes</i>]</p> <p><input type="checkbox"/> a director of the issuer or an affiliate of the issuer</p> <p><input type="checkbox"/> an executive officer of the issuer or an affiliate of the issuer</p> <p><input type="checkbox"/> a control person of the issuer or an affiliate of the issuer</p> <p><input type="checkbox"/> a founder of the issuer</p> <p>OR</p> <p>2) [<i>check all applicable boxes</i>]</p> <p><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><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 for this investment, 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>	

C. You are a person or company outside of Canada		Your initials
Foreign Purchaser	You are a not a resident of Canada	

D. You are a person or company defined as a Self-Certified Investor in ASC Blanket Order 45-538 <i>Prospectus Exemption for Self-Certified Investors</i> and/or FCAA General Order 45-538 <i>Prospectus Exemption for Self-Certified Investors</i>		Your initials
Self-Certified Investor	You are a Self-Certified Investor	

E. You are a minimum income investor (MII) because:		Your initials
MI I	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.)	
	<p>You are</p> <ul style="list-style-type: none"> • a person or company of which a majority of the voting securities are beneficially owned by MIIs or a majority of the directors are MIIs, • a general partnership of which all of the partners are MIIs, • a limited partnership of which a majority of the directors of the general partner are MIIs, • a trust or estate in which all of the beneficiaries or a majority of the trustees or executors are MIIs; 	

E.1 Investment limits for minimum income investor (MII) described in E		Your initials
Minimum Income Investor (MII)	If you are a MII, described in D, and the issuer has not included in the offering document its financial statements (as specified in Schedule A of Annex 1 of an Order) you acknowledge that the issuer together with the members of the Issuer Group (e.g., related companies) cannot sell you more than \$10,000 in any 12 month period.	
	If you are a MII, described in D, and the issuer has included in the offering document its financial statements (as specified in Schedule A of Annex 1 of an Order) you acknowledge that the issuer together with the members of the Issuer Group (e.g., related companies) cannot sell you more than \$20,000 in any 12 month period.	

F. You do not meet any of the prior classifications		Your initials
Not a MII	You acknowledge that you do not fit within any of the prior categories of purchaser.	

F.1 Investment limits for other purchasers referenced in F		Your initials
Not a MII	If you are a purchaser that is not specified in A, B, C, D or E above and the issuer has not included in the offering document its financial statements (as specified in Schedule A of Annex 1 of an Order) you acknowledge that the issuer together with the members of the Issuer Group (i.e., related companies) cannot sell you more than \$2,500 in any 12 month period.	
	If you are a purchaser that is not specified in A, B, C, D or E above and the issuer has included in the offering document its financial statements (as specified in Schedule A of Annex 1 of an Order) you acknowledge that the issuer together with together with the members of the Issuer Group (e.g., related companies) cannot sell you more than \$5,000 in any 12 month period.	

Annex 3
FORM 45-539F3
SMALL BUSINESS UNDERTAKING

To: Executive Director
Alberta Securities Commission
Suite 600, 250–5th St. SW
Calgary, Alberta, T2P 0R4
smallbusinessundertaking@asc.ca

and/or

Executive Director
Financial and Consumer Affairs Authority of Saskatchewan
1919 Saskatchewan Dr.
Regina, Saskatchewan, S4P 4H2
corpfin@gov.sk.ca

RE: Undertaking to deliver annual financial statement and notice of proceeds for offerings conducted under Alberta Securities Commission Blanket Order 45-539 *Small Business Financing* and/or Financial and Consumer Affairs Authority of Saskatchewan General Order 45-539 *Small Business Financing* (each an Order)

The [insert name of issuer] (the **issuer**) has distributed securities under an Order and is required to deliver this undertaking in accordance with subparagraph 3(1)(ii) of an Order. The issuer undertakes to do the following:

1. Within 120 days after the end of each of its financial years, deliver to the securities regulator its annual financial statements and deliver or make them reasonably available to each holder of a security distributed under an Order and any transferee of such security.
2. Despite section 1 of this Undertaking, if the issuer is required to deliver or make reasonably available annual financial statements for a financial year that ended before the issuer distributed securities under an Order for the first time where financial statements were required, those annual financial statements will be delivered on or before the later of
 - (a) the 60th day after the issuer first distributes securities under an Order in a distribution in which financial statements were required, and
 - (b) the deadline in section 1 of this Undertaking to deliver the annual financial statements.
3. The annual financial statements referred to in section 1 of this Undertaking will comply with Schedule A of Annex 1 of an Order as if they were financial statements required to be delivered with an offering document.

4. If the annual financial statements referred to in section 1 of this Undertaking present the components of profit or loss in a separate income statement, the separate income statement will be displayed immediately before the income statement referred to in paragraph 4 of Schedule A of Annex 1 to an Order.
5. If the issuer decides to change its financial year end by more than 14 days, it will deliver to the securities regulator and make reasonably available to each holder of a security acquired under an Order in a distribution in which financial statements were required, a notice containing the information set out in section 6 of this Undertaking as soon as practicable and, in any event, no later than the earlier of
 - (a) the deadline, based on the issuer's old financial year end, for the next annual financial statements referred to in section 1 of this Undertaking, and
 - (b) the deadline, based on the issuer's new financial year end, for the next annual financial statements referred to in section 1 of this Undertaking.
6. The notice referred to in section 5 of this Undertaking will state
 - (a) that the issuer has decided to change its financial year end,
 - (b) the reason for the change,
 - (c) the issuer's old financial year end,
 - (d) the issuer's new financial year end,
 - (e) the length and ending date of the periods, including the comparative periods, of the annual financial statements referred to in section 1 of this Undertaking for the issuer's transition year and its new financial year, and
 - (f) the filing deadline for the annual financial statements for the issuer's transition year.
7. If a transition year is less than 9 months in length, the issuer will include as comparative financial information to its annual financial statements for its new financial year
 - (a) a balance sheet, an income statement, a statement of retained earnings, a cash flow statement, and notes to the financial statements for its transition year,
 - (b) a balance sheet, an income statement, a statement of retained earnings, a cash flow statement, and notes to the financial statements for its old financial year,
 - (c) in the following circumstances, a balance sheet as at the beginning of the old financial year:
 - (i) the issuer discloses in its annual financial statements an unreserved statement of compliance with IFRS or the modified regulatory accounting principles (as defined in Schedule A of Annex 1 to an Order), and

(ii) the issuer

- (A) applies an accounting policy retrospectively in its annual financial statements,
- (B) makes a retrospective restatement of items in its annual financial statements, or
- (C) reclassifies items in its annual financial statements, and

(d) if applicable, in the case of the issuer's first IFRS financial statements, the opening IFRS statement of financial position at the date of transition to IFRS.

8. A transition year will not exceed 15 months.
9. An SEC issuer (as defined in National Instrument 51-102 *Continuous Disclosure Obligations*) satisfies sections 5 and 7 of this Undertaking if
 - (a) it complies with the requirements of U.S. laws relating to a change of fiscal year, and
 - (b) it delivers a copy of all materials required by U.S. laws relating to a change in fiscal year to the securities regulator at the same time as, or as soon as practicable after, they are filed with or furnished to the SEC and, in any event, no later than 120 days after the end of its most recently completed financial year.
10. The financial statements of the issuer referred to in section 1 of this Undertaking will be accompanied by a notice of the issuer disclosing in reasonable detail the use of the aggregate gross proceeds raised by the issuer under an Order in accordance with Form 45-106F16 *Notice of Use of Proceeds* made under National Instrument 45-106 *Prospectus Exemptions*, unless the issuer has previously disclosed the use of the aggregate gross proceeds in accordance with Form 45-106F16.
11. The issuer will make the disclosures specified by sections 1 and 10 of this Undertaking until the proceeds raised by the issuer under an Order have been completely expended.

DATED this _____ day of _____, 20__.

[NAME OF ISSUER]

Per: _____
[NAME]
[TITLE]

ANNEX B

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 13-101 *SYSTEM FOR ELECTRONIC DOCUMENT
ANALYSIS AND RETRIEVAL* (SEDAR)**

1. *National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR) is amended by this instrument.*
2. *Appendix A – Mandated Electronic Filings
II Other Issuers (Reporting/Non-reporting)
E. Exempt Market Offerings and Disclosure
Item 6 is replaced with the following:*
 6. Offering document, undertaking, financial statements and notices required to be delivered under ASC Blanket Order 45-539 *Small Business Financing* or FCAA General Order 45-539 *Small Business Financing*. Alta, Sask
3. This Instrument comes into force on ■, 2021.

ANNEX C

**PROPOSED REPEAL OF
ALBERTA SECURITIES COMMISSION RULE 45-517 PROSPECTUS EXEMPTION
FOR START-UP BUSINESSES**

1. *Alberta Securities Commission Rule 45-517 Prospectus Exemption for Start-Up Businesses is repealed by this Instrument.*
2. This Instrument comes into force on ■.

May 10, 2021

VIA EMAIL

Cathy Tearoe
Senior Legal & Policy Counsel, New Economy
Alberta Securities Commission
Suite 600, 250 – 5th Street SW
Calgary, AB T2P 0R4
Email: New.Economy@asc.ca

**Re: CSA Multilateral Notice and Request for Comment Proposed Order 45-539
Small Business Financing (the “Proposed Order”)**

The Canadian Advocacy Council of CFA Societies Canada¹ (the “CAC”) appreciates the opportunity to provide the following comments on the Proposed Order. While we are strongly supportive of the ASC and FCAA’s intent to foster capital formation and, more importantly, help smaller businesses raise capital and thrive, we have a number of specific concerns with respect to the Proposed Order.

More specifically, we would recommend consideration of the following three areas:

1. There does not appear to be a clearly communicated target issuer or investor base who will benefit from the proposed prospectus exemption;
2. The economic model upon which the prospectus exemption is based may not be viable; and
3. There may be unintended consequences of the securities offerings contemplated by the Proposed Order for retail investors.

We examine each of these concerns in more detail below.

We are unclear about who is intended to benefit from the proposed prospectus exemption and whether there is in fact a group of issuers or investors by or for which no other existing prospectus exemption could be utilized. For example, it is noted in the Proposed Order that “start-ups” could otherwise utilize the start-up crowdfunding exemption in Proposed National Instrument 45-110 *Start-up Crowdfunding Registration*

¹ The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 18,000 Canadian CFA Charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors’ interests come first, markets function at their best, and economies grow. There are over 173,000 CFA Charterholders worldwide in over 160 markets. CFA Institute has nine offices worldwide and there are 159 local member societies. For more information, visit www.cfainstitute.org.

and Prospectus Exemptions (“NI 45-110”). It is proposed in NI 45-110 that the aggregate gross proceeds raised by an issuer group during the 12 months prior to the crowdfunding distribution cannot exceed \$1 million, and each purchaser would be limited to an investment of no more than \$2,500 (\$5,000 if the purchaser has received advice from a registered dealer that such investment is suitable). As a result, we are not certain whether issuers would be motivated to try to meet the myriad conditions of the new proposed exemption as an alternative. We would have expected that issuers would instead have traditionally turned to the “family, friends and business associates” exemptions in sections 2.5 and 2.6 of National Instrument 45-106 *Prospectus Exemptions (“NI 45-106”)*.

In addition to whether issuers would otherwise choose to rely on the proposed prospectus exemption, we query if the economic model of the exemption is viable. We believe that the small capital raising limits set out in the Proposed Order may not justify the time and expense of raising capital utilizing the exemption.

We do not believe the availability of this prospectus exemption will result in favourable outcomes for retail investors. We believe the small allowable investment amounts, by design or unintended outcome, will attract retail investors. Even with the required risk disclosures, investments in such companies will pose a risk to retail investors of a permanent loss of their capital. In a paper entitled “Equity Crowdfunding: High-Quality or Low Quality Entrepreneurs?²”, authors Danie Blaseg, Douglas Cumming and Michael Koetter argue in the context of equity crowdfunding in Germany that as a result of potential costs due to factors such as early public disclosure of activities and communication costs with a large number of investors, such crowdfunding attracts lower-quality entrepreneurs, and that entrepreneurs who access such smaller offerings are more likely to fail.

Despite the information that would be made available to them through the offering document (more on that below), retail investors do not have the luxury of a secondary market price to be able to determine if the price they are paying for securities in a private placement for a private issuer is reasonable.

The Proposed Order would require, if issuers raise more than \$1.5 million pursuant to the new prospectus exemption, the delivery of financial statements that have been audited or subject to a review engagement. Further, such statements could be based on Canadian GAAP applicable to private enterprises (“**ASPE**”), with some modifications.

We believe that there have been demonstrated issues when ASPE is utilized, for example, potential for stale information with respect to valuation data. We recognize that the cost and time required to prepare and provide financial statements and obtain assurance in a review or audit engagement can be material for a small business. We have concerns about the lack of financial information that is provided to investors if the

² Daniel Blaseg, Douglas Cumming and Michael Koetter, “Equity Crowdfunding: High-Quality or Low-Quality Entrepreneurs?” (2021) 45(3) *Entrepreneurship Theory and Practice* 505.
00294835-3

"issuer group" raises no more than \$1,500,000 under the proposed exemption in a 12-month period. We would be supportive of some form of financial information being provided, such as through an expansion of Form 45-539F1 Small Business Offering Document, so that an investor can exercise diligence, independence, and thoroughness in analyzing their investment decision.

It is unclear in the Proposed Order who would be permitted to perform the required financial review. We believe it is important that the requirement specify that the certified public accountant performing the review engagement be independent.

We recognize the higher level of assurance provided to investors through audited financial statements. While reviewed financial statements do provide for a lower level of cost and time for the issuer, which can be very helpful for a small business, we hold the perspective that the delivery of audited financial statements be a prerequisite to higher offering and investment limits.

The proposed prospectus exemption would require the use of a streamlined offering document as set out in Form 45-539F1. The current form of offering document proposed is quite comprehensive, and we support the required level of disclosure. However, since such documents are not generally reviewed by regulators in advance of their use, the fact that a prescribed form of document is used may lull retail investors into a false sense of security that the offering has been vetted by regulators. As CFA charterholders with investment decision-making roles, we have seen that the fees, organizational description, risks and security attributes that are set out in offering documents tend to be complex and difficult for readers to understand. We continue to support clear and prominent fee and conflict disclosures upfront on the face pages of an offering document as an important investor protection mechanism, as well as "plain language" requirements throughout.

We note that the exemption may be of interest to issuers that are capital pool companies and are 'SPAC-like' in nature. These pooled vehicles provide a way for retail investors to access private market opportunities otherwise unavailable to them. Retail investors may be attracted to the optionality of accessing a popular, private deal that would be otherwise unavailable for investment. A concern frequently raised with respect to such issuers, however, is that those persons working for the issuer to search for investments utilize all available cash to do so, often overpaying for a private asset and ultimately diluting equity ownership by offering other investors PIPE investments.

Finally, the Proposed Order has some inconsistencies in language with what has been proposed in the Proposed Amendments to NI 45-106 and Proposed Changes to Companion Policy 45-106CP *Prospectus Exemptions* Relating to the Offering Memorandum Prospectus Exemption in September 2020 (the "**OM Proposals**"). For example, the OM Proposals would define a "collective investment vehicle" as "an issuer whose primary purpose is to invest money provided by its security holders in a portfolio of securities". While that term would include investment funds (in jurisdictions where investment funds can utilize the Offering Memorandum exemption), the Proposed Order

instead references that the new exemption may be used by “some businesses that act as a vehicle for collective investment”, including opportunity development cooperatives. We believe that the terms should be harmonized across prospectus exemptions wherever possible.

While we are of the view that innovative prospectus exemptions can provide tangible benefits to issuers through additional avenues for capital raising and to investors through diversification opportunities outside of the traditional stock markets, we have concerns in this case that the potential loss of investor protections may outweigh the benefits of the proposed prospectus exemption, particularly given its lack of differentiation from other existing or already-proposed prospectus exemptions, including NI 45-110. Given the issues with the Proposed Order, we would recommend that the implementing jurisdictions adopt an accountability framework for regularized review of issuer usage and investor outcomes from this prospectus exemption, with an initial public report 2 years following the implementation date of the Proposed Order.

Concluding Remarks

While we strongly support efforts to ease capital raising for start-up businesses, we are concerned that the Proposed Order would introduce a prospectus exemption that may not be utilized by issuers, is based on an unsustainable economic model and that could result in unintended consequences for retail investors. We recommend that the implementing jurisdictions closely monitor the usage of this exemption via public reporting on issuer usage and investor outcomes.

We thank you for the opportunity to provide these comments and would be happy to address any questions you may have. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future.

(Signed) *The Canadian Advocacy Council of
CFA Societies Canada*

**The Canadian Advocacy Council of
CFA Societies Canada**

From: [REDACTED]
To: [New Economy](#)
Subject: Proposed Small Business Financing exemption 45-539
Date: May 7, 2021 01:16:53 PM

EXTERNAL EMAIL

Hi Cathy. First of all ,I love the exemption and its potential. We at DealPoint (whose comments these are) are eager to work with it, if implemented. Here are some comments on above:

1. Perhaps the "no financials" cap could be 2mm rather than the 1.5mm proposed.
2. investor limit of \$2,500 is light in our mind. Maybe \$3,500. It is a lot of work to hit that many potential investors in 2 provinces, sparsely populated, to get anywhere near the \$1.5 mm cap.
3. The requirement to provide Form 45-106F16 Use of Proceeds (if over \$1.5mm raise) seems unnecessary to us. Bit like babysitting.
4. Not sure if you contemplated SAFE as permitted "securities". I guess it is caught up with common or convertible.
5. 10 day filing requirement post-close is tight. Go for 21 or 30.
6. No to liquid asset test.
7. We don't believe blind pool, or similar business models, should have any restrictions placed on them. We need to stimulate activity here, and any method that allows that should be encouraged.
8. We do not think Dealers will participate in these financings, and that is ok. Keeps fees down.
9. For sure the SPV model, being heavily used in the US with success, must be included in this exemption as a structure, WITHOUT any added disclosure or red tape.

That's it from us. Keep up the outstanding work.

It is 2021-Let's work with our Planet-not against her!

--



J.R. Richardson
Co-Founder & Director of
Partnerships
DealPoint Capital

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]



From: [REDACTED]
To: [Denise Weeres](#); [Lynn Tsutsumi](#)
Cc: [New Economy](#)
Subject: RE: Proposed Orders Small Business and Finder's Exemptions
Date: May 7, 2021 04:18:03 PM

EXTERNAL EMAIL

Dear Denise,

I will send my comments on the Finder's registration to the new.economy@asc.ca.

My comments regarding the proposed Small Business Financing and Finder's registration are interrelated but will try to reply to both.

Response to Proposed Order 45-539 Small Business Financing

First of all, would like to commend the ASC for trying to think outside the box to find a way to attract capital for Alberta businesses to grow our economy. It has been difficult for capital to be raised in Alberta during COVID and the overall poor economy that we all face.

Our recommendation to the ASC on Small Business Financing is the following:

- Notarized declaration to assure the client is accredited is burdensome and will reduce capital formation. For a \$2,500 to \$10,000 investment, do you think a potential investor will make an appointment to meet a lawyer to bring their accounting records for them to sign off that they are accredited and pay \$200 - \$500 for that service? The ASC's job is to protect investors from fraudsters, not themselves. If they want to lie and misrepresent, that should not be a burden for the ASC. We recommend an acknowledgement form that provides the self-proclaimed investor a way to "check off" their qualification should suffice
- How do you plan to monitor people's annual / lifetime investments without any KYC or registrant to review investments for clients?

Form 45-539 Small Business Offering Documents:

- An OM costs \$25,000 to \$100,000 depending on the complexity and audited financials are \$15,000 to \$30,000. Based on these estimates, how can a small business looking to raise \$1.5m - \$5m afford to create a "OM Lite" document?
- If only accredited investors can invest, why not make it an investor deck that would include business plan, management, pro forma, use of funds, risk disclosure form, term sheet and sub docs? Something that could be created easily and affordably? If it can't be explained in a 5 page business plan or 20 page power point, it's too complexed for investors to invest
- Regarding financials, opening statements that say \$0 are worthless to any investor. If you want to have financials, they must be relevant and ongoing. Issuer should have to guarantee to the regulators ongoing financial statements even after the money is raised for a period of time (3 years after the close on money?) or banned from any future capital raises

Finder's Exemption

As a registered EMD, we are adamantly opposed to allowing a watered down Northwest Exemption to allow unsophisticated sales people to convince unsophisticated investors to invest in a highly risky investment. This is fraught with disaster and scams. The ASC may not know this but many EMDs will

no longer be able to receive E&O insurance and DRs can only get E&O insurance from approved EMDs. At this point, many EMDs will be without E&O insurance by the end of the year. This may be enticing for underperforming DRs to surrender their licence and become Finders instead. Has the ASC forgotten winners like Harvest, Platinum to name a few?

How do you swindle people? By small amounts of money (\$10,000) that's not enough to seek litigation. As a former Police Commissioner, police are over worked and will not put a priority on these little scams. There already is a high risk of total loss with these investments; why would you want to add deceit and theft to the mix?

Laundering of money

If there is no registrant, how does the ASC know where the money is coming from and not an opportunity for organized crime to clean money through Alberta small businesses?

TriView's recommendation

Our recommendation is to allow these programs to be administered by registrants like EMDs to perform KYCs to ensure money is clean and to allow minimum investments of \$10,000 without suitability requirements. The goal here is to raise money affordably, responsibly and safely. It allows the regulators to monitor the program more efficiently to gauge success. By allowing maximum lifetime of \$10,000, the ASC can ensure proper KYCs are done and can track the program more effectively.

Sincerely,
Craig
Craig S Burrows, ICD.D
President & CEO

[Redacted signature block]



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May 13, 2021

Alberta Securities Commission
Suite 600, 250 – 5th Street SW
Calgary, AB. T2P 0R4

Attention: Cathy Tearoe, Senior Legal & Policy Counsel, New Economy

Dear Sirs/Mesdames:

**RE: PCMA Response To CSA Multilateral Notice and Request for Comment Proposed Order
45-539 *Small Business Financing***

The Private Capital Markets Association of Canada (the **PCMA**) is pleased to provide our comments in connection with Canadian Securities Administrators (**CSA**) Multilateral Notice and Request for Comment on Proposed Order 45-539 *Small Business Financing* (the **Proposed Exemption**), as set out below.

About the PCMA

The PCMA is a not-for-profit association founded in 2002 as the national voice of exempt market dealers, issuers and industry professionals in the private capital markets across Canada.

The PCMA plays a critical role in the private capital markets by:

- being the voice of the private capital markets to securities regulators, government agencies and other industry associations;
 - assisting hundreds of dealer and issuer member firms and individual dealing representatives to understand and implement their regulatory responsibilities;
 - increasing public and industry awareness of the private capital markets in Canada;
 - providing high-quality and in-depth educational opportunities to private capital markets professionals;
 - encouraging the highest standards of business conduct amongst its membership across Canada; and
 - connecting its members across Canada for business and professional networking.

Additional information about the PCMA is available on our website at www.pcmacanada.com.

General

The PCMA is pleased with the Alberta Securities Commission's (the **ASC**) and the Financial and Consumer Affairs Authority of Saskatchewan's (the **FCAA**) recognition that small businesses in Canada are underserved by the suite of prospectus exemptions currently available to them. In Alberta and Saskatchewan particularly, where historical over reliance on certain industries in combination with the effects of the COVID-19 Pandemic has enhanced economic uncertainty, supporting entrepreneurship is now more important than ever.

While the PCMA believes projects that focus on regulatory harmonization and burden reduction continue to be important areas of focus, the PCMA applauds the ASC and FCAA for taking the lead in recognizing the importance of Canada's small businesses and acknowledge the difficulties being faced by local private businesses.

Specific Comments

- 1. To what extent do you anticipate that this prospectus exemption would be relied on by Alberta and Saskatchewan businesses? Do you think that the exemption will be relied on more for financings**
 - a. above the proposed threshold of \$1,500,000 per 12 months at which financial statements are triggered?**
 - b. or below the proposed threshold?**

The PCMA believes that from an overall 'dollars invested' perspective, the Proposed Exemption will likely have low uptake in Alberta and Saskatchewan when compared to historically popular prospectus exemptions like the Accredited Investor Exemption or Offering Memorandum Exemption under sections 2.3 and 2.9 of National Instrument 45-106 – *Prospectus Exemptions (NI 45-106)*. Nonetheless, lower uptake should not be viewed as diminishing the importance of the exemption. For these businesses, compliant distribution of securities can be challenging and any participation will reflect exponentially greater access to capital.

The PCMA also expects that due to the breadth and complexity of the Proposed Exemption, it will likely not be perceived as simple and accessible to the target demographic of issuer and will take time for management teams and their legal counsel to both become aware of it as a potential capital raising solution for small businesses. Law firms will also need to build up precedent materials that would assist in making the Proposed Exemption more affordable for small businesses raising capital.

The Proposed Exemption should be a momentum builder for issuers that do not know, or have access to, accredited investor networks or alternatively, they do not yet have the sophistication and capital required to use the Offering Memorandum Exemption.

The PCMA believes there are two distinct groups (*i.e.*, small operating businesses and transitional issuers) that will primarily benefit from the Proposed Exemption and its adoption will largely depend on how widely known the Proposed Exemption becomes. The PCMA believes:

- i. the *under \$1,500,000 financing option* will largely be relied upon by small operating businesses seeking securities distribution as an alternative to bank financing where conventional lenders are currently unwilling to participate or financing conditions cannot be satisfied. This is likely to be the least sophisticated group to make use of the Proposed Exemption and their ability to become aware of this as an option will depend on the ASC's and FCAA's ability to communicate with law firms, accountants and business support services that are not typically active or familiar with the securities regulatory landscape.**

- ii. the **over \$1,500,000 financing option** will largely be relied upon by *transitional issuers* that plan to graduate to relying on the Offering Memorandum Exemption for future distributions but who can use the Proposed Exemption as a means of accessing capital on a lower cost basis while building out the infrastructure needed to make use of the Offering Memorandum Exemption.
2. ***In setting the investment limits, we considered both the level of disclosure being provided to investors and the investor's ability to withstand loss. Investors investing as minimum income investors or "MIIs" would not be accredited investors and can be assumed to have annual income of less than \$200,000. In particular, we have proposed that an MII has had annual net income in excess of \$75,000 or \$125,000 with their spouse for the last two years and, in the case of non-individuals, generally to persons or companies that are controlled by a MII. We have not proposed an asset test by which a person or company could qualify to invest. We were concerned that an investor e.g., a retired investor, might meet an asset test based on the value of their home but have very little income and not be able to withstand the loss of their investment. Should we consider adding a liquid asset test? If so, would \$500,000 in net realizable financial assets (i.e., cash and securities) be an appropriate limit?***

The PCMA is not aware of any reason why a liquid asset test should be excluded from the Proposed Exemption. The PCMA does question the dollar amount as the net asset test for an eligible investor is \$400,000 and so it would benefit from understanding the rationale of having a higher financial asset threshold than the net asset test for a group of investors that has the same net income test. For the Accredited Investor Exemption, the financial asset threshold is lower than the net asset threshold and so would expect the same logic to be applied. If the net asset test for an eligible investor is \$400,000 then the financial asset test for an MII should be the \$400,000 or lower.

In order to maximize the use of the Proposed Exemption, the PCMA would recommend a lower amount such as \$200,000. The raising of this issue simply reiterates that a better option for the ASC and FCAA exists through the registered dealer distribution channels, where situation-specific suitability assessments are performed (see our comments to Question #10 below).

3. **Are the limits on investment for MIIs under the Proposed Exemption in any 12 month period appropriate i.e.,**
 - a. **\$10,000 when the specified financial statements are not provided, and**
 - b. **\$20,000 when the specified financial statements are provided?**

The PCMA is philosophically opposed to the use of investment limits wherever a registered dealer or adviser is performing a suitability assessment. The principles-based approach of suitability is far more effective at protecting investors than individual investment limits. Nonetheless, in cases where no registrant is involved, the PCMA believes the proposed limits to be reasonable.

The PCMA notes that it would take 150 investors who each invested \$10,000 to raise \$1.5 million or 250 investors who each invested \$20,000 to raise \$5 million. The PCMA believes the sheer number of investors and the management of such an investor group would make the sole use of the Proposed Exemption to raise capital impractical. The PCMA believes that the Crowdfunding Exemption has not been successful because, among other reasons, the investment limits are so low that there has been little interest by registrants or the business community at large since the costs and burden outweighs the benefits and opportunities.

The PCMA believes that the cost versus benefit must always be considered by regulators in connection with any capital raising exemption (i.e., investor protection and fair and efficient capital markets).

4. **Investors who do not qualify as "MIIs" can be assumed to have annual income of less than \$75,000 and/or a combined income with their spouse of less than \$125,000. Are the limits on investment under the Proposed Exemption in any 12 month period appropriate i.e.,**
 - a. **\$2,500 when the specified financial statements are not provided, and**
 - b. **\$5,000 when the specified financial statements are provided?**

See the PCMA's response to #3 above. The PCMA notes that it would take 600 investors who each invested \$2,500 to raise \$1.5 million or 1,000 investors who each invested \$5,000 to raise \$5 million.

5. **Purchasers would have a two-day cancellation right or cooling off period and would also have a statutory right of action to sue for damages or rescission in the event of a misrepresentation, without needing to prove that they relied on that misrepresentation. Are other conditions beyond the offering document, risk acknowledgement and investment limits necessary to address investor protection concerns?**

The PCMA believes these protections are in line with current regulation relating to the most closely comparable exemption, the Offering Memorandum Exemption, and therefore supports their use.

6. **We have proposed that an issuer group that raises more than \$1,500,000 from investors who do not qualify to invest under other specified exemptions in any 12 month period under the Proposed Exemption would need to undertake to make available a notice of use of proceeds to each holder of a security distributed under the Proposed Exemption (and any transferee of such security). Do you think that this requirement should apply to all raises under the Proposed Exemption (i.e., including raises of less than \$1,500,000 in any 12 month period)?**

This requirement should not be expanded to all uses of the Proposed Exemption. The PCMA anticipates that the Proposed Exemption will have greatest utility among small operating issuers in need of low or deferred cost of capital. It is expected that for the majority of these issuers, raising less than \$1,500,000 will be sufficient, and it is important that they be given the ability to do so with minimal additional cost (which cost is ultimately borne by the investor in the form of depressed returns or increased risk).

Moreover, start-ups and small entities may 'pivot' or change their use of proceeds to reflect the harsh realities of being a start-up and trying to adapt to a changing business environment. It is not clear how a strict application of use of proceeds that includes the filing of Form 45-106F16 *Notice of Use of Proceeds* made under NI 45-106 in a fluid business environment works for business. The ASC and FCAA need to explicitly address such matters otherwise the Proposed Exemption will provide investors an unfair right to sue for a misrepresentation when a start-up pivots for legitimate business reasons and fails. See also the response in Question 9(d) below.

7. **We have proposed that the issuer be required to file the offering document together with a Form 45-106F1 *Report of Exempt Distribution* and deliver the undertaking, if required, within 10 days following the distribution. Under the start-up crowdfunding regime, issuers have 30 days. Is 10 days a reasonable timeline to complete this filing, which must be done electronically through SEDAR?**

Until SEDAR+ has been implemented to streamline filing for issuers, maximum flexibility should be afforded to issuers under the Proposed Exemption. For entities not familiar with SEDAR, filing is not intuitive and they are unlikely to have existing relationships with third party filers. Expecting these issuers to understand and resolve the filing process in the midst of their capital raise will likely result in unintended non-compliance. Such issuers should have at least 30 days to file. Alternatively, the ASC and FCAA should

consider alternative filing options, including through direct submission, in order to accommodate the expected issuer demographic.

The PCMA believes that an annual filing for Form 45-106F1 – *Report of Exempt Distribution* for all types of exempt securities should be considered. The CSA currently allows investment funds distributed under prospectus exemptions to file annually but all other exempt distributions have to be filed within 10 calendar days and depending on the jurisdiction of distribution, this may need to be filed three different ways. This is costly and time consuming. We understand that this would be a CSA effort and not solely the ASC and FCAA.

- 8. We have proposed that the issuer group could raise up to the aggregate lifetime maximum of \$5,000,000 under the Proposed Exemption. The intention of imposing a lifetime limit is to encourage issuers to graduate to the disclosure required either by the OM Exemption or that of a reporting issuer once they have raised more than the specified amount from investors. The \$5,000,000 limit does not apply to investments made by investors under other exemptions e.g., accredited investor, family, close personal friends and business associates, foreign investors, or, if adopted, self-certified investors. Is \$5,000,000 the appropriate limit for requiring an issuer to graduate to the disclosure requirements under the OM Exemption?**

The PCMA is not in possession of any data to suggest the \$5,000,000 limit is appropriate or inappropriate. In addition, the PCMA believes the regulators should not be encouraging issuers to use one exemption over another and should allow issuers to determine which exemptions suit their needs best.

- 9. We have proposed that an issuer group that raises more than \$1,500,000 from investors who do not qualify to invest under other specified exemptions under the Proposed Exemption in any 12 month period would need to undertake to deliver annual financial statements. However, we have proposed that these need not be audited, if subject to a review engagement report, and need not be prepared in accordance with Canadian GAAP for publicly accountable enterprises if they comply with the modified regulatory accounting principles set out in the Proposed Exemption.**

- a. Given the requirements of applicable corporate law, to what extent is there benefit in permitting the annual financial statements to be subject only to a review engagement report?**

The PCMA understands that corporate shareholders in certain circumstances and jurisdictions may waive the need for audited financial statements (for example through the provisions of a Shareholder Agreement) and the ability to delivery review engagement reports brings the exemption in line with current practices.

- b. To what extent does the relief from having to deliver annual financial statements prepared in accordance with Canadian GAAP for publicly accountable enterprises reduce the regulatory burden for small businesses?**

This is a significant concession for small businesses that do not have a relationship with a large accounting firm. The PCMA understands that a number of small and boutique accounting service providers will not commonly prepare financial statements in accordance with IFRS, or if required to do so, will have markedly higher fees. Relief in this regard will help mitigate offering costs and also allow issuers to preserve relationships with their accounting professionals in smaller firms and outside of major financial centers.

- c. Do you anticipate that issuers will have difficulty engaging accountants to review and provide review engagement reports if financial statements are prepared in accordance with the modified regulatory accounting principles set out in the Proposed Exemption?**

The PCMA has no reason to believe this is a concern, but look to the accounting profession to provide comment. The PCMA appreciates that cost to prepare such statements may be a concern to issuers which must be weighed against the cost and burden versus the benefit to investors.

- d. The reason for requiring ongoing financial statements is to allow investors to see whether the offering proceeds were used as described in the offering document. We have contemplated that the requirement to provide ongoing financial statements continue until the proceeds raised by the issuer under the Proposed Exemption have been completely expended. Is this appropriate or should this obligation continue until the earlier of (i) the date the issuer becomes a reporting issuer in any jurisdiction of Canada, and (ii) the date the issuer ceases to carry on business?**

The PCMA questions the utility of financial statements in allowing investors to determine whether offering proceeds were used as described in the offering document and does not believe extending this period. Nonetheless, the PCMA questions the ability of issuers to correctly determine when the proceeds of distribution have been ‘fully expended’ when commingled with other capital sources.

As stated above, the PCMA believes that start-ups may ‘pivot’ or change their use of proceeds to adjust to their changing business environment. If issuers do so to keep the business alive, they are now opening themselves up to a misrepresentation claim by investors if any ‘pivot’ [or change in use of proceeds] does not work out. The PCMA requests clarification by the ASC and FCAA. See also the PCMA response in Question 6 above.

10. Registered dealers may be unwilling to participate in financings under the Proposed Exemption given the small amount of capital being raised. Is this a reasonable assumption? Would registered dealers be likely to participate in such financings?

The PCMA agrees that registered dealers will generally be unwilling to distribute the securities of issuers relying on the Proposed Exemption, although such offerings may present unique investment opportunities for their investor clients.

As has been discussed in multiple PCMA comment letters, the primary barrier to dealer involvement will be the know-your-product (KYP) requirements under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* and its impact on suitability. The costs of discharging the firm’s KYP obligations to the extent currently enforced, and enhanced under the Client Focused Reforms, creates a cost barrier to distribution for many issuers who seek to raise less than CA\$5 million. One way to increase the likelihood of registered dealers’ involvement in such distributions would be to add to the requirements that the maximum investment amount can be higher if a registered dealer has provided advice, similar to what is available in certain jurisdictions (including Alberta and Saskatchewan) under the Offering Memorandum Exemption.

The PCMA believes the ASC and FCAA should, together, with its fellow CSA members, explore whether or not commensurate relief or guidance in respect of KYP could be granted to dealers that would allow them to distribute securities of smaller issuers economically. There is a concerning philosophical regulatory inconsistency where “direct distribution” exemptions such as the Proposed Exemption are being explored, while the burden and requirements on registrants are increasing.

The Proposed Exemption is not unique in this respect; however it remains curious that there are capital raising options for investors where investors receive no additional protection from know-your-client (KYC), KYP, suitability etc., other than a per investment limit, however the regulatory requirement on dealers continues to increase and further distance them from these investments. The PCMA believes this

creates a binary approach the regulatory regime seemingly prefers that investors receive no registrant-level protections for some higher risk securities (small business and start-up) than having prospectus exemptions that attracts registrants back to this segment of the economy.

11. We have indicated that although the Proposed Exemption would not be available to investment funds, we anticipate that it may be used by businesses that act as vehicles for collective investment, including opportunity development cooperatives (ODCs). Do you anticipate that ODCs or other businesses that act as vehicles for collective investment would rely on this exemption? If so, should we require additional disclosure from such issuers in line with what is being contemplated for "collective investment vehicles" as defined in the Proposed Amendments to National Instrument 45-106 *Prospectus Exemptions* and Proposed Changes to Companion Policy 45-106CP *Prospectus Exemptions* Relating to the Offering Memorandum Prospectus Exemption.

Regulatory consistency should be sought to the extent possible. Indirect offering structures are often recommended by tax advisors; therefore, it is likely businesses that act as vehicles for collective investment would rely on this exemption, assuming this exemption is attractive in the first place since it is for smaller enterprises.

12. Do you anticipate that this exemption would be of interest to issuers that are raising money without a specific business objective, commonly known as "blind pools" or "blank checks?" If so, would it be appropriate to bar these issuers from using this exemption by prohibiting the proceeds of the distribution from being used by the issuer to invest in, merge or amalgamate with or acquire a business that has not been described in the issuer's offering document? Alternatively, rather than bar these issuers from using the exemption, are there conditions to its use that would be appropriate to impose on such issuers (e.g., funds raised must be held in trust until a business is invested in, merged with, amalgamated with, or acquired, a shareholders meeting is required to approve the business that will be invested in, merged with, amalgamated with, or acquired etc.).

If the ASC and FCAA are contemplating "capital pool companies" for the private markets, then additional guidance should be provided so everyone is on a level playing field.

13. With respect to multi-jurisdictional crowdfunding offerings, ASC Rule 45-517 *Prospectus Exemption for Start-Up Businesses* (45-517) has been superseded by ASC Blanket Order 45- 521 *Start-up Crowdfunding Registration and Prospectus Exemptions* (which is anticipated to in turn be superseded by National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*). 45-517 has only been used for local non-crowdfunding offerings. The Proposed Exemption would increase the investment and offering limits as compared to 45-517 and consequently there does not appear to be a reason to maintain 45- 517. Do you agree or disagree? Please explain.

The PCMA agrees with this approach.

Other Matters

Below are certain other matters that the PCMA believes the ASC and FCAA should consider in relation to the Proposed Exemption.

- **Minimum Offering Amount** – Provide additional guidance about how a minimum offering amount is determined and explicitly state whether there must be a minimum offering amount. For example, could the minimum offering be the minimum subscription amount? The PCMA expects this will be a concern since issuers raising capital under the Proposed Exemption must do so within 120 days after the offering document is first delivered to a purchaser. Also, please clarify whether this is a potential or actual purchaser.
- **Form 45-539F1**- Item 9 refers to forward-looking information. There is little to no guidance on what is forward-looking information and what is required compared to the Offering Memorandum Exemption and in connection with disclosure requirements for reporting issuers. Additional information and guidance for issuers is required.

In conclusion, the PCMA thanks the ASC and FCAA for the opportunity to provide our comments and look forward to providing additional input or consultation upon request.

Regards,

“*Brian Koscak*”, Chair of
PCMA Advocacy Committee
and Member of Executive
Committee

“*Craig Skauge*”
PCMA President and
Vice Chair

“*Nadine Milne*”
Director

cc: PCMA Board of Directors