



REQUEST FOR COMMENTS

Notice and Request for Comment

Publication of the proposal to repeal existing Local Rule 45-509 *Community Economic Development Corporations and Associations* and existing Companion Policy 45-509 *Community Economic Development Corporations and Associations* and replace with new proposed Local Rule 45-509 *Community Economic Development Corporations and Cooperatives* (the “**Proposed Rule**”) as set out in Appendix “A” and new proposed Companion Policy 45-509CP *Community Economic Development Corporations and Cooperatives* (the “**Proposed Companion Policy**”) as set out in Appendix “B”.

Substance and Purpose

The purpose of the local rule is to continue to provide a registration and prospectus exemption for Community Economic Development Corporations and Cooperatives. The Proposed Rule and Proposed Companion Policy have incorporated changes to addresses comments by stakeholders since the rule was implemented. The revised materials will also incorporate changes related to the new *Cooperatives Act*.

Summary of Changes:

- **New Risk Acknowledgment Form:** The current rule requires a CEDC to have the purchaser complete Form 45-106F4 *Risk Acknowledgment Form* under National Instrument 45-106 *Prospectus Exemptions* (“**NI 45-106**”) which included additional information not relevant to CEDCs. The new proposed form only includes information relevant to a CEDC.
- **New Report of Exempt Distribution Form:** The current rule requires a CEDC to deliver a completed Form 45-106F1 *Report of Exempt Distribution* under NI 45-106, which included information that was not relevant to a distribution by a CEDC. The new proposed form only includes information that is relevant for a distribution by a CEDC.
- **CEDC deemed a market participant:** Deeming a CEDC a market participant will provide better investor protection and ensure that the Commission can conduct compliance reviews of CEDCs.
- **Changes to the Offering Document:** The offering document was updated to provide better instructions on how to complete the offering document and to provide more fulsome disclosure to investors.

How to Provide your Comments

Comments are to be provided, in writing, by no later than 30 November 2020 to:

Secretary
Financial and Consumer Services Commission
85 Charlotte Street, Suite 300
Saint John, N.B. E2L 2J2

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CONSUMER SERVICES
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We cannot keep submissions confidential. A summary of the written comments received during the comment period may be published.

Questions

If you have any questions, please refer them to:

To-Linh Huynh
Executive Director of Securities
Financial and Consumer Services Commission (NB)
Tel: (506) 643-7856
Email: to-linh.huynh@fcnb.ca

Appendices

Appendix A – Proposed Local Rule 45-509 *Community Economic Development Corporations and Cooperatives*

Appendix B – Proposed Companion Policy 45-509 *Community Economic Development Corporations and Cooperatives*



APPENDIX A

LOCAL RULE 45-509

Community Economic Development Corporations and Cooperatives

PART 1

DEFINITIONS AND INTERPRETATION

Definitions

1. In this Instrument

“CEDC” means a community economic development corporation or cooperative that has a certificate of registration or has applied for a certificate of registration under the *Small Business Investor Tax Credit Act*;

“eligible share” means a share of a CEDC that is eligible for a tax credit certificate under the *Small Business Investor Tax Credit Act*;

“offering” means an offering of eligible shares by a CEDC to raise the amount of capital referred to in the community economic development plan under the *Small Business Investor Tax Credit Act*;

“offering document” means an offering document used by a CEDC in an offering in the form prescribed in Part 3;

“specified issue” means an issue of eligible shares by a CEDC under the *Small Business Investor Tax Credit Act*.

Interpretation

2. Terms defined in National Instrument 14-101 *Definitions*, National Instrument 45-106 *Prospectus Exemptions* and the *Securities Act (Act)* have the respective meanings ascribed to those terms in those instruments.

PART 2

PROSPECTUS AND REGISTRATION EXEMPTIONS

Prospectus and registration exemptions

3. (1) The prospectus requirement does not apply to a distribution by a CEDC of an eligible share of a specified issue if all of the following apply:



- (a) the CEDC files with the Commission its certificate of registration issued under the *Small Business Investor Tax Credit Act* and such certificate has not been revoked or surrendered;
 - (b) the CEDC files with the Commission an offering document and pays the fee for an offering document prescribed in Local Rule 11-501 *Fees*;
 - (c) the Executive Director issues a letter of non-objection;
 - (d) the CEDC, at the same time or before the purchaser signs the agreement to purchase eligible shares of the CEDC, does both of the following:
 - i. delivers the offering document to the purchaser in the prescribed form;
 - ii. obtains from the purchaser a signed risk acknowledgement in the prescribed form;
 - (e) the eligible shares are not sold by, or through, a registrant.
- (2) The dealer registration requirement does not apply to a CEDC if all of the following apply:
- (a) the conditions in subsection (1) are satisfied;
 - (b) the distribution of eligible shares is made by persons described in the offering document;
 - (c) the CEDC does not provide advice to a purchaser or otherwise recommend or represent either of the following:
 - i. that an eligible share is suitable;
 - ii. any information about the merits of the eligible share.
- (3) The investment fund manager registration requirement does not apply to a CEDC if all of the following apply:
- (a) the conditions in subsection (1) are satisfied;
 - (b) the CEDC includes in its offering document the following warning in bold type:

WARNING: Unlike most investment funds, this fund will not be required to comply with the investment fund manager registration requirement provided that the fund complies with Local Rule 45-509 *Community Economic Development Corporations and Cooperatives*. Other investment funds are required to have registered investment fund managers to afford investors a level of protection that is not present in this investment. When investors purchase or own eligible shares in this fund, they should be aware that they will not have the protections of the requirements and standards



imposed on investment fund managers under New Brunswick securities laws, which include:

- meeting experience and education requirements,
 - complying with investment fund reporting requirements,
 - employing a chief compliance officer,
 - maintaining minimum levels of working capital,
 - maintaining specified levels of insurance or bonding, and
 - undergoing Commission compliance reviews.
- (4) The prescribed form of risk acknowledgement is Form 45-509F3 *Risk Acknowledgement Form for Community Economic Development Corporations and Cooperatives*;
- (5) A CEDC relying on the exemptions in subsections (1) to (3) must retain the signed risk acknowledgment for 8 years after the distribution.

First and subsequent trades

4. The first trade and each subsequent trade of an eligible share of a CEDC is deemed to be a distribution, and trades of eligible shares will be restricted in accordance with the following:
- (a) National Instrument 45-102 *Resale of Securities*,
 - (b) *Small Business Investor Tax Credit Act* and *General Regulation – Small Business Investor Tax Credit Act*.

Designation as a market participant

5. A CEDC that distributes securities in reliance on a prospectus or registration exemption in this Part is designated as a market participant under the *Securities Act*.

PART 3 THE OFFERING

Disclosure to potential purchasers

6. (1) A CEDC must provide each potential purchaser with all of the following:
- (a) the offering document in the prescribed form, a subscription agreement and a copy of all promotional material;
 - (b) any additional materials required by the Executive Director.



Form of offering document

7. The prescribed form of offering document is Form 45-509F1 *Offering Document for Community Economic Development Corporations and Cooperatives*.

Promotional material

8. An offering document must state that all promotional materials relating to each distribution under the offering document, including those prepared after the date of the offering document, are incorporated by reference into the offering document and are deemed to form part of the offering document.

Cancellation rights

9. A potential purchaser can cancel their agreement to purchase the securities by sending a notice to the CEDC by midnight on the 2nd business day after either of the following:
 - (a) the day the CEDC received the completed subscription agreement;
 - (b) the day the CEDC has notified the purchaser of an amendment to the offering document.

Financial statements included in the offering document

10. (1) If the CEDC has completed one or more financial years, the CEDC must include in the offering document the annual financial statements of the CEDC for both of the following:
 - (a) the most recently completed financial year;
 - (b) the financial year immediately preceding the financial year in paragraph (a), if any.
- (2) If the CEDC has completed one or more financial years, the CEDC must include in the offering document the most recent interim financial statement of the CEDC that is no more than 90 days from the date of the offering document.
- (3) If the CEDC has not completed one financial year or its first financial year end is less than 120 days from the date of the offering document, it must include in the offering document either of the following:
 - (a) an interim financial report of the CEDC that is not more than 90 days older than the date of the offering document;
 - (b) the annual financial statements for the partial year.



Use of available funds

11. All amounts raised under an offering must be used as indicated in the offering document.

Time limitation on offering

12. (1) An offering initially closes on the date specified in the offering document.
- (2) Unless the Executive Director grants an extension under subsection (3), the initial closing date specified in the offering must be a date no later than 95 days after the date on the certificate of registration issued under the *Small Business Investor Tax Credit Act*.
- (3) The Executive Director may grant an extension of date specified in the offering on application by the CEDC.
- (4) After the initial closing date, a CEDC may continue to offer eligible shares under the offering document if the Executive Director has issued a letter of non-objection for the subsequent sales and only for such time period as indicated in the letter of non-objection.

Amounts to be held in trust

13. (1) All amounts subscribed under an offering must be held in a designated trust account at a Canadian financial institution until after both of the following apply:
- (a) the CEDC meets its minimum offering amount for the initial closing and all conditions of closing have been met;
- (b) the initial closing occurs.
- (2) Any amounts subscribed for under an offering made after the initial closing must be held in the same manner as in subsection (1) until after both of the following apply:
- (a) the CEDC meets its minimum offering amount for the next closing and all the conditions of the next closing have been met;
- (b) the next closing occurs.
- (3) The conditions in subsection (2) apply to each subsequent closing.
- (4) The CEDC must return all consideration received promptly to the purchaser if either of the following apply:
- (a) the CEDC does not meet its minimum offering amount by the applicable closing date;



(b) the purchaser exercises the cancellation rights described in section 9.

Amendments to the offering document

- 14.** (1) Except as permitted in this section, no amendment may be made to an offering document after the Executive Director issues a letter of non-objection.
- (2) Despite subsection (1), an amendment may be made to an offering document after the Executive Director issues a letter of non-objection if the CEDC delivers the amendment to the offering document to the Commission and either of the following applies:
- (a) the CEDC has not yet met its minimum offering amount, the initial closing has not yet occurred and any of the following apply:
- i. there is a material change in the affairs of the CEDC;
 - ii. the terms or conditions of the offering are being altered;
 - iii. additional shares of the same class are to be distributed in addition to the eligible shares described in the offering document;
- (b) the CEDC has met its minimum offering amount, the initial closing has taken place, the CEDC is still distributing its eligible shares under the offering document and there is a material change in the affairs of the CEDC.
- (3) An amendment to an offering document must describe the change that resulted in the amendment and receive the written non-objection of the Executive Director.
- (4) An amendment to an offering document must be sent to all subscribers of the specified issue after the Executive Director has issued a non-objection to the amendment.

Report of exempt distribution

- 15.** (1) A CEDC that makes a distribution and relies on the prospectus exemption in Part 2 must file a completed report of exempt distribution in the prescribed form with the Executive Director no later than 30 days after the date of each closing of an offering.
- (2) The prescribed form of report of exempt distribution is Form 45-509F2 *Report of Exempt Distribution for Community Economic Development Corporations and Cooperatives*.

Abandonment



16. If an offering document is filed with the Commission and the CEDC conducts no activity for 90 days after filing the offering document, the Commission may consider the application to be abandoned.

PART 4 LETTER OF NON-OBJECTION

Letter of non-objection

17. (1) The Executive Director may issue a letter of non-objection to an offering document unless, in the opinion of the Executive Director, any of the following apply:
- (a) the offering is not in the public interest;
 - (b) the offering document does not meet all the requirements of the *Securities Act*, the regulations, or this Instrument;
 - (c) the offering does not or will not comply with this Instrument;
 - (d) the offering document contains a misrepresentation or a statement, promise, estimate or forecast that is misleading, false or deceptive;
 - (e) the CEDC intends to pay or pays an unconscionable consideration for promotional purposes or for the acquisition of property;
 - (f) the proceeds from the offering, together with other resources of the CEDC, are insufficient to accomplish the objectives of the offering stated in the offering document;
 - (g) the CEDC cannot reasonably be expected to be financially responsible in the conduct of its business, having regard to the financial condition of the CEDC or of an officer, director or control person of the CEDC;
 - (h) the past conduct of the CEDC or of an officer, director or control person of the CEDC affords reasonable grounds for belief that the business of the CEDC will not be conducted with integrity and in the interests of its security holders.
- (2) On receipt of an offering document, the Executive Director may do any of the following:
- (a) inquire into any aspect of the disclosure in the offering document;
 - (b) request delivery of supplemental information before or after determining whether to issue a letter of non-objection;



- (c) require the inclusion of supplemental information in the offering document before or after issuing a letter of non-objection.

Revocation of letter of non-objection

- 18. (1) The Executive Director may revoke a letter of non-objection if, in the opinion of the Executive Director, the continuation of the offering would be prejudicial to the public interest or the CEDC has not complied with the Instrument.
- (2) The Executive Director shall not revoke the letter of non-objection without giving the CEDC an opportunity to be heard.
- (3) The CEDC and any other person trading on its behalf must immediately cease trading eligible shares of the CEDC if they receive notice of revocation referred to in subsection (1), until the CEDC receives notification that the Executive Director has withdrawn the notice of revocation.

PART 5 PERMITTED PROMOTIONAL ACTIVITIES

Permitted activities

- 19. (1) Before the Executive Director issues a letter of non-objection to an offering document, a promoter may do any of the following:
 - (a) talk individually, or in group situations, with potential purchasers to give the potential purchasers a general overview of the offering, including any of the following information:
 - i. identification of the CEDC;
 - ii. an indication of the amount of money needed to be raised;
 - iii. a general description of what use will be made of the money raised;
 - iv. an outline of the tax consequences;
 - (b) gather the names of potential purchasers who may be interested in the offering;
 - (c) distribute promotional material or expression of interest forms provided that the promotional material used or distributed includes all of the following:
 - i. the disclaimer described in subsection (3);



- ii. an endorsement of a director, officer or promoter of the CEDC evidencing the approval of the promotional material;
 - iii. no other information other than the following:
 - A. the name of the CEDC;
 - B. the location, date and time of any meeting;
 - C. the purpose of the meeting, which must be to determine if there is sufficient interest to proceed with the offering;
 - D. the contact information respecting the meeting.
- (2) After the Executive Director issues a letter of non-objection to an offering document, a promoter may distribute promotional material or expression of interest forms provided that the promotional material used or distributed includes all of the following:
- (a) the disclaimer described in subsection (3);
 - (b) an endorsement of a director, officer or promoter of the CEDC evidencing the approval of the promotional material;
 - (c) the name of the CEDC;
 - (d) no other information other than the following:
 - i. the name and contact information of the promoters;
 - ii. how to obtain a copy of the offering document;
 - iii. the price per eligible share;
 - iv. the individual minimum purchase amount;
 - v. information regarding the tax credit under the *Small Business Investor Tax Credit Act*, including confirmation that the CEDC complies with all applicable legislation for purchasers to benefit from the tax credit;
 - vi. potential income tax consequences;
 - vii. the location, date and time of any meeting;
 - viii. in whole or in part, the information in summary form, contained in items 2.2, 7.1 and 8 of the offering document of the CEDC.



- (3) The promotional materials must contain the following disclaimer which must be legible without magnification, or in the case of audibly transmitted promotional material, included audibly in the material:

This Community Economic Development Corporation or Cooperative offering is a risky investment. This offering is made through an offering document, which can be obtained through a person authorized to sell the eligible shares. This offering is an exempt offering of eligible shares only in New Brunswick. Investors should read the offering document before making an investment decision.

- (4) The CEDC must deliver a copy of its promotional materials to the Commission no later than 2 business days after the materials are first used.
- (5) The promotional materials, other than radio and television promotional materials, must be distributed to all potential purchasers who have received the offering document.
- (6) The promotional materials must not be made available, used or distributed after the latest permitted closing date of the offering.
- (7) A promoter must not accept any binding commitments or binding expressions of interest, whether oral or written, or consideration from any potential purchaser before the Executive Director issues a letter of non-objection to the offering document.
- (8) An expression of interest form must contain the following warnings to potential purchasers:
- (a) they should read and consider the offering document that they will receive with respect to the offering, if the offering does proceed;
 - (b) they should consult with a professional advisor before deciding to purchase eligible shares under the offering;
 - (c) the expression of interest is not a binding commitment to purchase eligible shares under the offering.
- (9) A CEDC may distribute shares under other prospectus exemptions concurrently with the distribution of eligible shares in a specified issue if full details of the concurrent distribution are disclosed in the offering document.

Prohibition on trading



20. Other than provided for in this Part, there must be no trading or activity directly or indirectly in furtherance of trading, in the eligible shares of the CEDC before the Executive Director issues a letter of non-objection under section 17.

PART 6 ONGOING REPORTING REQUIREMENTS

Annual financial statements

21. (1) A CEDC must deliver annual financial statements to the Commission if it has met its minimum offering and the initial closing has occurred.
- (2) The annual financial statements under subsection (1) must be delivered within 140 days from the end of the CEDC's most recently completed financial year.
- (3) A CEDC that is required to deliver annual financial statements under subsection (1) is exempt from the fee to file annual financial statements under Local Rule 11-501 *Fees*.

Copies to Security Holders

22. The CEDC must make reasonably available to all its security holders a copy of its annual financial statements required to be delivered under subsection 21(1) at the same time as the annual financial statements are delivered to the Commission.

Prohibition against insider trading, informing and recommending

23. (1) A CEDC that has met its minimum offering, met all conditions of closing and has closed its initial offering is subject to the prohibitions in section 147 of the *Securities Act* applicable to issuers and the related provisions of the rules under the *Act* to the same extent as if the CEDC was an issuer.
- (2) Every person who would be in a special relationship with the CEDC if the CEDC was an issuer is subject to the prohibitions in section 147 of the *Securities Act* applicable to persons in a special relationship with an issuer and the related provisions of the rules under the *Securities Act* to the same extent as if the CEDC was an issuer and the person was in a special relationship with the issuer.

Notice of specified events

24. (1) A CEDC must make reasonably available to each security holder of an eligible share acquired under section 3 a notice of any of the following events in the form prescribed, within 10 days of the occurrence of the event:



- (a) a fundamental change in the nature, or a discontinuation, of the CEDC's business;
 - (b) a significant change to the CEDC's capital structure;
 - (c) a major reorganization, amalgamation or merger involving the CEDC;
 - (d) a significant acquisition or disposition of assets, property or joint venture interests;
 - (e) a change to the CEDC's board of directors or executive officers, including the departure of the CEDC's chief executive officer, chief financial officer, chief operating officer or president or persons acting in similar capacities.
- (2) The prescribed form of notice is Form 45-509F4 *Notice of Specified Events*.
- 25.** A CEDC is no longer required to comply with the ongoing reporting requirements in this Part if any of the following apply:
- (a) the CEDC delivers to the Executive Director a notification from the Minister of Finance that the CEDC has surrendered its registration or the Minister of Finance has revoked its registration;
 - (b) the CEDC delivers to the Executive Director a statement from the officers of the CEDC certifying all of the following:
 - i. that the CEDC has fewer than 3 security holders;
 - ii. that the hold period required by the *Small Business Investor Tax Credit Act* has expired on all eligible shares;
 - iii. that financial statements on which a review has been carried out by an independent accountant in compliance with the review standards as set out in the Handbook and that are dated within 90 days of the delivery have been delivered to the Executive Director;
 - iv. that the CEDC has complied with all the requirements of this Instrument;
 - (c) that security holders, representing 66.6% or more of shares eligible to vote, have voted in favour of not being required to comply with this Part.



**PART 7
ACCOUNTING AND AUDITING STANDARDS**

26. (1) A CEDC's annual financial statements do not require a report of an auditor if all of the following apply:
- (a) the security holders are not required by law to appoint an auditor;
 - (b) a general review has been carried out by an independent accountant in compliance with the general review standards as set out in the Handbook;
 - (c) the financial statements are accompanied by a review engagement report as set out in the Handbook.
- (2) For the purposes of this Instrument, the financial statements for a CEDC may be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises or Canadian GAAP applicable to private enterprises as set out in the Handbook.
- (3) If a CEDC delivers financial statements prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises, it must continue to deliver financial statements prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises.
- (4) Any use of financial forecasts or projections must be made in accordance with Part 4B of National Instrument 51-102 *Continuous Disclosure Obligations*.

**PART 8
RECORD KEEPING**

27. A CEDC must maintain books and records at its head office to accurately record its financial affairs, client transactions, and the extent of the CEDC's compliance with this Instrument, for a period of 8 years from the date a record is created.



**PART 9
DIRECTORS AND OFFICERS**

- 28.** The directors and officers of the CEDC must be individuals who are suitable to act in such a capacity and whose past conduct does not afford reason to believe that the business of the CEDC will not be conducted fairly, honestly and in good faith.

**PART 10
EXEMPTIONS**

Exemptions from this Instrument

- 29.** The Executive Director may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

**PART 11
EFFECTIVE DATE**

Effective date

- 30.** This Instrument comes into force on ●.



FORM 45-509F1

OFFERING DOCUMENT FOR COMMUNITY ECONOMIC DEVELOPMENT

CORPORATIONS AND COOPERATIVES

General Instructions for Completing Form 45-509F1:

1. *Draft the offering document so that it is easy to read and understand. Be concise and use clear, plain language. Avoid technical terms. If technical terms are necessary, provide definitions or explain the terms.*
2. *In the order set out in Form 45-509F1, provide details for the items required by the offering document. Omit items that do not apply.*
3. *Instructions for preparing the offering document are italicized and in square brackets. Do not include these general instructions, or any specific instructions outlined below, in the completed offering document.*
4. *In the offering document, include all information below found in quotation marks. Remove the quotation marks when copying into the offering document.*
5. *It is an offence to make a misrepresentation in the offering document. This applies both to information that is required by the form and to additional information that is provided.*

Date: [Insert the date from the certificate page.]

The CEDC:

Name	
Registered office address	
Address of principal business	
Phone #	
Contact person/position	
E-mail address	
Website URL	
Fax #	
Financial year end (month/day)	



The Offering:

Securities offered	
Price per security	
Minimum subscription amount per investor	
Minimum # of shares offered	<i>[If there is no minimum, state in bold type: “There is no minimum.”]</i>
Total proceeds if minimum sold	
Maximum # of shares offered	
Total proceeds if maximum sold	
Minimum # of investors required	
Payment terms	
Proposed closing date(s)	

Cautions

[Include the statements below in bold.]

“Tax Consequences

There are important tax consequences to these securities. See item 6.

Resale Restrictions

You are restricted from selling your securities. See item 10.

Purchaser’s Rights

You have 2 business days to cancel your agreement to purchase these securities. If there is a misrepresentation in this offering document, you have the right to sue either for damages or to cancel the agreement. See item 11.

Neither the Financial and Consumer Services Commission (the Commission) nor the Government of New Brunswick has assessed, reviewed or approved the merits of these shares or reviewed this offering document. This is a risky investment.”

[If the CEDC is an investment fund, include this statement in bold.]

“WARNING: Unlike most investment funds, this fund will not be required to comply with the investment fund manager registration requirement provided that the fund complies with Local Rule 45-509 *Community Economic Development Corporations and Cooperatives*. Other investment funds are required to have registered investment fund managers to afford investors a level of protection that is not present in this investment. When investors purchase or own shares in this fund they should be aware that they will not have the protections of the requirements and standards imposed on investment fund managers under New Brunswick securities laws, which include:

- **meeting experience and education requirements,**
- **complying with investment fund reporting requirements,**



- **employing a chief compliance officer,**
- **maintaining minimum levels of working capital,**
- **maintaining specified levels of insurance or bonding, and**
- **undergoing Commission compliance reviews.”**

Item 1: Use of Available Funds

1.1 Funds – *[Include the following statement and table to disclose the funds available from the offering. If the CEDC plans to combine additional sources of funding with the available funds from the offering to achieve its principal capital raising purpose, provide details about each additional source of funding.]*

“The funds available from the offering are as follows:”

		If minimum sold	If maximum sold
A.	Amount to be raised by this offering	\$	\$
B.	Legal and accounting expenses	\$	\$
C.	Administrative and other expenses	\$	\$
D.	Available funds: $D = A - (B+C)$	\$	\$
E.	Additional sources of funding required	\$	\$
F.	Total: $F = D+E$	\$	\$

1.2 Use of Available Funds – *[Include the following statement and table to provide a detailed breakdown of how the CEDC will use the available funds in order of priority. If the CEDC has a working capital deficiency, disclose the portion, if any, of the available funds to be applied against the working capital deficiency.]*

“The funds raised in the offering will be used as follows:”

Description of intended use of available funds, listed in order of priority	Assuming min. offering	Assuming max. offering
	\$	\$
	\$	\$
	\$	\$
	\$	\$



Total: <i>[equals to F in the Funds table above]</i>	\$	\$
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[Include the following completed statement.]

“The proceeds from the offering *[will/will not]* satisfy the CEDC’s cash requirements for the next 12 months, and it *[will/will not]* be necessary to raise additional funds.” *[If applicable, state the source of additional funds, if any.]*

1.3 Reallocation – *[The available funds must be used for the purposes disclosed in the offering document. The board of directors can reallocate the proceeds to other uses only for sound business reasons. All funds must be used in compliance with the Small Business Investor Tax Credit Act.]*

[If the available funds are to be reallocated, include the following statement]

“We intend to spend the available funds as stated in the offering document. We will reallocate funds only for sound business reasons and in compliance with the *Small Business Investor Tax Credit Act.*”

Item 2: Business of CEDC

2.1 Structure – *[Indicate the business structure and statute under which the CEDC is incorporated, continued or organized, and the date of incorporation, continuance or organization.]*

2.2 Our Business – *[Describe the CEDC's business. The disclosure must provide sufficient information to enable a prospective purchaser to make an informed investment decision. This disclosure may include principal products or services, operations, market, marketing plans and strategies and a discussion of the CEDC's current and prospective competitors.]*

2.3 Development of Business – *[Describe the general development of the CEDC's business over at least its two most recently completed financial years and any subsequent period. Include the major events that have occurred or conditions that have influenced (favourably or unfavourably) the development of the CEDC.]*

2.4 Short-term Objectives and How We Intend to Achieve Them

- (a) *[Disclose in sufficient detail the CEDC's short-term business objectives for the next 12 months.]*
- (b) *[Include the following table to describe each significant event and disclose how the CEDC intends to meet those business objectives for the next 12 months. Explain how the funds raised by the offering will meet those business objectives.]*



Description of short-term objectives, and action required to achieve them	Target completion date (if unknown, number of months to complete)	Estimated cost to complete
		\$
		\$
		\$
		\$

2.5 Long-Term Objectives – [Describe the CEDC’s long-term objectives (for example, objectives for 2-3 years in the future), each significant event that must occur to accomplish the CEDC’s long-term objectives, the specific time period in which each event is expected to occur, and the costs related to each event.]

2.6 Insufficient Funds – [If applicable, disclose that the funds available from the offering either may not or will not be sufficient to accomplish all the CEDC’s proposed objectives and no assurance exists that alternative financing will be available. If alternative financing has been arranged, disclose the amount, source and all outstanding conditions that must be satisfied.]

2.7 Dividends and Distributions – [Describe the particulars of the CEDC’s dividend policy. If there are none, please indicate. Include the details of dividends and other distributions paid by the CEDC to its security holders during the last five years.]

2.8 Material Agreements – [Disclose the key terms of all material agreements to which the CEDC is currently a party.]

Item 3: Interests of Directors, Management, Promoters and Principal Holders

3.1 Compensation and Securities Held – [Using the following table, provide the specified information about each CEDC director, officer, promoter and principal holder (for example, each person who, directly or indirectly, beneficially owns or controls 10% or more of any class of voting securities of the CEDC). If the CEDC has not completed its first financial year, then include any kind of compensation paid since inception.]



Name & Principal residence (city, province)	Position held & Date of obtaining position	Compensation paid by CEDC: i) last financial year ii) current financial year	Securities held after completion of min. offering	Securities held after completion of max. offering
[Name] [City, Province]	[Position with CEDC] [Date]	[i] \$XXX [ii] \$XXX	[Type of shares] [# of shares] [% of shares]	[Type of shares] [# of shares] [% of shares]

3.2 Management Experience – [Using the following table, disclose the principal occupations, with dates (Month/Year), of the directors and executive officers over the past five years. In addition, for each individual, describe any relevant education and experience in a business similar to the CEDC's and details of any education and experience with other CEDCs.]

Name	Principal occupation(s) for the last 5 years (Month/Year)	Related education and experience

3.3 Conflicts of Interest – [Provide a description of any personal relationships (such as related family members, marriage between individuals, etc.) that exist between the officers, directors, key personnel, promoters and principal security holders. If there are no such personal relationships, so indicate.]

[State whether the CEDC has adopted a conflict of interest policy, who it applies to, and describe how potential conflicts are managed.]



3.4 Litigation, Penalties or Sanctions, Cease Trade Orders and Bankruptcy – [Disclose if a person listed in item 3.1, or the CEDC, as the case may be:]

- (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) of Canada,*
 - (ii) *a quasi-criminal offence in any jurisdiction of Canada or 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 or tribunal of Canada or a foreign jurisdiction in the last ten years related to his or her involvement in any type of professional activity, such as securities, insurance, banking or other type of financial or consumer services activity,*
- (c) *is or has been the subject of a bankruptcy or insolvency proceeding,*
- (d) *is a director or officer of an issuer that is or has been subject to a proceeding described in paragraphs (a), (b) or (c) above.]*

Item 4: Capital Structure

4.1 Capital Structure – [Include the following statement and table to provide the required information about the CEDC’s outstanding securities (including options, warrants and other securities convertible into shares). If necessary, add notes to the table to describe the material terms of the securities.]

“The following table describes the outstanding and issued securities of the CEDC:”

Description of security	Number authorized to be issued pursuant to CEDC’s by-laws and constating documents	Total dollar value and number outstanding as at DD-MM-YY <i>[insert a date not more than 30 days prior to the offering document date]</i>	Total dollar value and number outstanding after minimum offering	Total dollar value and number outstanding after maximum offering



[Preferred Shares]				
[Common Shares]				
[Other]				

4.2 Prior Sales – [If the CEDC has issued any shares of the class being offered under the offering document within the last 12 months, complete the following table:]

Date of issuance	Type of security issued	Number of securities issued	Price per security	Total funds received

Item 5: Securities Offered

5.1 Terms of Securities – [Describe the material terms of the securities being offered, including:

- (a) voting rights or restrictions on voting,
- (b) rights of redemption,
- (c) dividend rates,
- (d) rights on dissolution, and
- (e) other.]

5.2 Subscription Procedure

- (a) [Describe how a purchaser can subscribe for the securities, including the name of a contact person, and the method of payment.]
- (b) [State] “The consideration will be held in trust for the purchaser and will become available to the CEDC only after the conditions of closing described below have been met and the offering has closed.”
- (c) [State] “The following are conditions of the initial closing of the offering:
 - (i) the CEDC has received the minimum offering amount of \$[insert amount];



- (ii) all material contracts have been signed, and all material consents of third parties have been obtained;
- (iii) all necessary and required certificates under the *Small Business Investor Tax Credit Act* and its regulations and other applicable laws have been obtained and are current, including:
 - A. a letter of non-objection issued by the Executive Director that has not been subsequently revoked; and
 - B. a certificate of registration that has not lapsed or been revoked by the Minister of Finance; and
- (iv) at least 3 shareholders have subscribed.”

5.3 Failure to Meeting Conditions of Closing

[State] “If the minimum offering amount and all other conditions of the initial closing are not achieved on or before the closing date, and no extension has been granted by the Executive Director, the offering will be withdrawn and all of the proceeds of subscription, without interest, will be returned to the subscribers no later than 30 days after the closing date.”

5.4 Concurrent Offering

[If the CEDC proposes to distribute securities under a prospectus exemption other than through a specified issue, describe the details of such distribution.]

Item 6: Canadian Income Tax Considerations

6.1 [State] “This commentary is of a general nature only and is not intended to be tax advice to any particular investor. You should consult your own professional advisers to obtain advice on the income

tax consequences that apply to you.”

6.2 [If income tax consequences are a material aspect of the securities being offered, provide a summary of the significant income tax consequences to investors. Provide the name and address of the professional advisors, if any, involved in the preparation of the answer to this section. If no professional advisors have been used, include the statement below.]

“No professional advisers have been used in the preparation of the tax disclosure.”

Item 7: Promoters

7.1 [Include the following statement and table.] “The following persons are authorized to sell shares under the offering:”

Name	Address	Business Phone #	Email Address
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Item 8: Risk Factors

8.1 [Include the following statement and list the most substantial risks to an investor in this offering.]

“The following, listed in order of importance, are the risk factors that the CEDC considers to be the most substantial risks to an investor in this offering:

-
-
-

8.2 [State] In addition, potential investors should consider the following risk factors before they decide to purchase the shares being offered:

- The shares are speculative in nature. An investment is appropriate only for investors who are prepared to have their money invested for a minimum of 4 years, and who have the capacity to absorb a loss of some or all of their investment and all of their tax credit.
- There is no organized market through which the shares may be sold. Therefore, investors may find it difficult or even impossible to sell their shares.
- There are restrictions on the resale of the shares. See item 10 for details.
- The CEDC may not achieve a level of profitability to permit dividends to be paid. Investors should not count on any return from these shares.
- Tax laws may change.
- Investors who redeem their securities before the minimum time period of 4 years will lose some or all of their tax credit.”



Item 9: Reporting Obligations

9.1 [State] “The CEDC will deliver to the Financial and Consumer Services Commission and the Department of Finance and send to security holders, annual financial statements and in certain circumstances, a notice of specified events, the latter of which within 10 days after the date on which the specified event occurs.”

[Disclose any other documents required by the CEDC’s governing legislation, constating documents, or other documents under which the CEDC is organized, that will be sent to purchasers on an annual or on-going basis.]

Item 10: Resale Restrictions

10.1 [State]

“These securities will be subject to a number of resale restrictions under National Instrument 45-102 *Resale Restrictions*, including a restriction on trading. Until the restriction on trading expires, you will not be able to trade the securities unless you comply with an exemption from the prospectus and registration requirements under securities legislation.

Securities issued by a cooperative, may be subject to further resale restrictions under cooperatives legislation, and the by-laws of the cooperative.”

10.2 [State]

“Under the *Small Business Investor Tax Credit Act*, a person who disposes of a share in respect of which a tax credit has been allowed within 4 years from the date of purchase is liable to repay the Minister of Finance an amount equal to the tax credits received in respect of the share purchased, including interest, if interest is prescribed by the regulations made under that Act, or a lesser amount that is determined in accordance with the regulations under that Act.”

Item 11: Purchasers' Rights

[Include these statements.]

“Purchasing this share gives you certain rights, some of which are described below. For information about your rights you should consult a lawyer.

- Two Day Cancellation Right – You can cancel your agreement to purchase these securities. To do so, you must send a notice to us by midnight on the 2nd business day after either of the following:
 - (a) the CEDC received the completed subscription agreement;
 - (b) the day the CEDC has notified you of an amendment to the offering document.



- Statutory Rights of Action in the Event of a Misrepresentation – If there is a misrepresentation in this offering document, you have a statutory right to sue the following:
 - (a) [name of the CEDC] to cancel your agreement to buy these shares;
 - (b) for damages against [name of the CEDC], every director of the CEDC as of the date of this offering document and every person who signed the offering document.

This statutory 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 the right to sue described in (a) or (b) above, you must do so within strict time limitations. You must commence your action to cancel the agreement within 180 days after the date of the transaction which gave rise to the cause of action. You must commence your action for damages within the earlier of one year after you first had knowledge of the facts giving rise to the cause of action, and 6 years after the date of the transaction that gave rise to the cause of action.”

Item 12: Promotional Materials

[State]

“All promotional materials relating to each distribution under this offering document, including those prepared after the date of this offering document, are incorporated by reference into the offering document and are deemed to form part of the offering document.”

Item 13: Financial Statements

[In the offering document, immediately before the certificate page, include all required financial statements.]

Item 14: Date and Certificate

[State the following on the certificate page of the offering document.]

“This offering document does not contain a misrepresentation.”

Dated at _____ [city] _____, on ____ [date] ____.

[This certificate must be signed by the following persons:]



- *the chief executive officer (or a person acting in a similar capacity if the CEDC does not have a CEO), and*
- *the chief financial officer (or a person acting in a similar capacity if the CEDC does not have a CFO),*
- *on behalf of the board of directors, any 2 directors of the CEDC who are authorized to sign, other than the foregoing.]*



Form 45-509F2

Report of Exemption Distribution for Community Economic Development Corporations and Cooperatives

General Instructions for Completing Form 45-509F2:

- 1. Instructions for preparing this report are italicized and in square brackets. Do not include these general instructions, or any specific instructions outlined below, in the completed report.*
- 2. The completed report can be filed with the Financial and Consumer Services Commission (the **Commission**). Relying on Blanket Order 13-503 In the Matter of an Exemption from the Requirement to File Reports of Exempt Distribution in Electronic Format on SEDAR for Distributions by Community Economic Development Corporations or Associations, submit the report by email to: EMF-MD@fcnb.ca.*

Item 1 – Community Economic Development Corporation and Cooperative (CEDC) Information

New report

Amended report If amended, provide filing date of amended report _____ (YYYY-MM-DD)

[Include the legal name of the CEDC and the registered office. This should be the same information as provided on the offering document.]

Full name _____ (the CEDC)

Address _____

Telephone _____

Website _____ (if applicable)

Email _____ (if applicable)

Item 2 – Details of Distribution

[State the distribution start and end dates. If the report is being filed for securities distributed on only one distribution date, provide the distribution date as both the start and end dates.]

Start Date _____ (YYYY-MM-DD) End Date _____ (YYYY-MM-DD) Closing Date _____ (if different than End Date) (YYYY-MM-DD)

Type of Security	Price per Security	Total Number of Security Distributed	Total Dollar Value Raised	Total Number of Purchasers

Item 3 – Promoters

[List the names of all promoters, as defined under the Securities Act, involved with the distribution, and state if any of these individuals received or will receive compensation (commission, finder’s fee or other payment) in connection with the distribution.]

Name of Promoter	Compensation Paid (Y/N)
_____	_____
_____	_____
_____	_____
_____	_____

Item 4 – Purchasers

[Complete Schedule 1 of this form for each purchaser and attach the schedule to the completed report.]

Item 5 – Certification

[This certificate must be signed by an officer or director of the CEDC or an agent authorized by an officer or director of the CEDC to prepare and certify this report on behalf of the CEDC.]

On behalf of the CEDC, I certify that the statements made in this report are true and accurate.

Signature	_____	Date	_____
Full name	_____	Telephone	_____
Title	_____	E-mail	_____

NOTE: IT IS AN OFFENSE TO MAKE A MISREPRESENTATION IN THIS REPORT.

Notice – Collection and Use of Personal Information

The personal information required under this form is collected on behalf and used by the Commission under the authority granted in the *Securities Act* for the purposes of the administration and enforcement of that Act. If you have any questions about the collection and use of this information, contact us at 1-866-933-2222 or info@fcnb.ca.

The attached Schedule 1 may contain personal information of individuals and details of the distribution(s). The information in Schedule 1 will not be placed on the public file of the Commission. However, the *Right to Information and Protection of Privacy Act* may require the Commission to make this information available if requested.

By signing this report, the CEDC confirms that each individual listed in Schedule 1: a) has been notified by the CEDC of the delivery to the Commission the information pertaining to the individual as set out in Schedule 1, that this information is being collected by the Commission under the authority granted in the *Securities Act* and that this information is being collected for the purposes of the administration and enforcement of the *Securities Act*; and b) has authorized the indirect collection of the information by the Commission.



Form 45-509F3

Risk Acknowledgement Form for Community Economic Development Corporations and Cooperatives

Risk Acknowledgement

- I acknowledge that this is a risky investment.
- I am investing entirely at my own risk.
- The Financial and Consumer Services Commission (the Commission) has not evaluated or endorsed the merits of these securities or the disclosure in the offering document.
- The person selling me these securities is not registered with the Commission and has no duty to tell me whether this investment is suitable for me.
- I will not be able to sell these securities except in very limited circumstances. I may never be able to sell these securities.
- The securities are redeemable, but I may only be able to redeem them in limited circumstances. *[Instruction: Delete if securities are not redeemable]*
- If I sell or redeem these securities before holding them for 4 years, I may lose some or all of my small business investor tax credit.
- I could lose all the money I invest.

I am investing \$ _____ in total.

I acknowledge that this is a risky investment and that I could lose all the money I invest.

Date

Signature of Purchaser

Print name of Purchaser

The purchaser must sign 2 copies of this form. The purchaser and the CEDC must each receive a signed copy.

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You have 2 business days to cancel your purchase *[Instruction: The CEDC must complete this section before giving the form to the purchaser.]*

To do so, send a notice to [name of the CEDC] 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 fax or email or deliver it in person to [name of the CEDC] at its business address. Keep a copy of the notice for your records.

CEDC Name and Address: _____

Fax: _____

E-mail: _____



Form 45-509F4

Notice of Specified Events

This is the required form under section 24 of Local Rule 45-509 *Community Economic Development Corporations and Cooperatives* to provide notice of specified events to security holders of an eligible share acquired under section 3 of Local Rule 45-509.

PART 1 CEDC Name and Address

Provide the following information.

Full Legal Name: _____

Street Address: _____

Municipality: _____

Province: _____

Postal Code: _____

Website: _____

PART 2 Specified Event

The event, as described in Part 3, is: *[Select one or more type of event from the list below]*

- a fundamental change in the nature, or a discontinuation, of the CEDC's business
- a significant change to the CEDC's capital structure
- a major reorganization, amalgamation or merger involving the CEDC
- a significant acquisition or disposition of assets, property or joint venture interests
- changes to the CEDC's board of directors or executive officers, including the departure of the issuer's chief executive officer, chief financial officer, chief operating officer or president or persons acting in similar capacities

Date on which the event occurred: _____ (dd/mm/yyyy)

PART 3 Event Description

Provide a brief description of the event identified in Part 2.

PART 4 Contact Person

Give the name, title, business telephone number and email address of a person at the CEDC who can be contacted regarding the event described in Part 3.



APPENDIX B

COMPANION POLICY 45-509CP

Community Economic Development Corporations and Cooperatives

PART 1 - GENERAL COMMENTS

Introduction

This Companion Policy sets out how the Financial and Consumer Services Commission (the Commission or we) interprets or applies the provisions of Local Rule 45-509 *Community Economic Development Corporations and Cooperatives* (the Instrument) and related legislation.

Except for Part 1, the numbering of Parts in this Companion Policy corresponds to the numbering in the Instrument. Any general guidance for a Part appears immediately after the Part name. Any specific guidance on sections in the Instrument follows any general guidance. If there is no guidance for a Part or section, the numbering in this Companion Policy will skip to the next provision that does have guidance.

Terms used in the Instrument and in this Companion Policy have the meaning given to them in securities legislation, including, for greater certainty, National Instrument 14-101 *Definitions*, National Instrument 45-106 *Prospectus Exemptions* and the *Securities Act*.

Definitions

1. In this Companion Policy,

“*SBITC Act*” means the *Small Business Investor Tax Credit Act*, S.N.B. 2003, c S-9.05;

“*General Regulation*” means New Brunswick Regulation 2003-39 under the *Small Business Investor Tax Credit Act*.

Fundamental concepts

2. Two fundamental concepts to securities legislation in New Brunswick are that:

- 1) every person who is in the business of trading or advising in securities and derivatives must be registered with the Commission; and
- 2) every person who distributes new securities must disclose certain information to potential investors in the form of a prospectus.

The Instrument provides exemptions from these two requirements for CEDCs that meet certain criteria outlined in that rule. The Instrument is complementary to, and works parallel with, the *SBITC Act* and

the General Regulation under that Act. A CEDC that wants to take advantage of the prospectus and registration exemptions in the Instrument must also comply with the requirements for the registration of community economic development corporations or cooperatives outlined in the *SBITC Act* and *General Regulation*.

If a corporation or cooperative no longer meets the criteria to qualify for the prospectus and registration exemptions under the Instrument, but proposes to distribute additional securities outside the scope of the *SBITC Act*, it should refer to other securities laws, such as National Instrument 45-106 *Prospectus Exemptions*, to determine if there are other prospectus exemptions available, and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* to determine whether it is subject to any registration requirements, and if any registration exemptions are available.

PART 2 – PROSPECTUS AND REGISTRATION EXEMPTIONS

Part 2 contains the requirements that a CEDC must meet in order to qualify for an exemption from the prospectus and registration requirements contained in securities legislation.

First and subsequent trades

4. A CEDC should be aware that the distribution of securities may be subject to resale restrictions. This means that the securities cannot be resold by the purchaser unless certain requirements are met. This includes keeping the securities for a specific period of time, often referred to as a seasoning period or restricted period. The rules and additional guidance on resale restrictions can be found in National Instrument 45-102 *Resale of Securities*.

A purchaser that has claimed the New Brunswick Small Business Investor Tax Credit is also subject to holding requirements that are distinct and separate from those noted above. There are potential negative consequences under the *SBITC Act* and *General Regulation* if a CEDC redeems an eligible share prior to 4 years from the date on which the eligible share was issued. Under the *General Regulation*, early redemptions are only permitted in certain circumstances, such as the death of the original purchaser of the eligible share. A CEDC should refer to the *SBITC Act* and the *General Regulation* for the permitted circumstances and conditions for an early redemption.

A CEDC that is a cooperative should be aware that there may be restrictions in applicable cooperatives legislation on the transferability of shares, and there may be other restrictions in the by-laws of the cooperative.

PART 3 – THE OFFERING

Use of available funds

11. A CEDC should be aware that it may be in breach of securities legislation and may be subject to regulatory action if it does not use the amounts raised under the offering in the same manner as indicated in the offering document. In addition, a CEDC must adhere to the specific investment requirements outlined in the *General Regulation* or it may be subject to a penalty outlined in the *General Regulation*.

Time limitation on offering

12. (3) If the CEDC applies to the Executive Director for an extension of the initial closing date under subsection 12(3), it must also obtain the approval of the Department of Finance for such an extension.

(4) Similarly, if a CEDC proposes to offer eligible shares after the initial closing date, in addition to the letter of non-objection from the Executive Director, the CEDC should also obtain any additional approval that may be required from the Department of Finance.

Amendments to the offering document

14. Section 14 outlines the requirements for a CEDC if it delivers an amendment to an offering document after the Executive Director has issued a letter of non-objection. In addition, CEDCs should be aware that the Department of Finance has its own requirements in the event that the CEDC makes an amendment. Specifically, if the CEDC delivers an amendment, the Department of Finance will require the CEDC to submit an updated investment plan for review. A CEDC should refer to the Department of Finance, the *SBITC Act* and the *General Regulation* to determine if it is subject to any additional requirements.

Report of exempt distribution

15. A CEDC that relies on the prospectus exemption in Part 2 must file the prescribed form of report of exempt distribution with the Executive Director no later than 30 days after the closing date of the offering. The CEDC must also send its financial statements to the Department of Finance no later than 30 days after each closing of an offering.

Abandonment

16. The application by the CEDC may be considered to be abandoned if the CEDC conducts no activity for 90 days after filing the offering document with the Commission. For example, an activity would include any correspondence with the Commission regarding the application. If the Commission determines that the CEDC has abandoned the application, the Commission will notify the CEDC that the application will be considered as abandoned, unless the CEDC contacts the Commission within 10 days.

PART 4 – LETTER OF NON-OBJECTION

Revocation of letter of non-objection

18. The Executive Director has the power to revoke a letter of non-objection where the Instrument is not being complied with or if the offering would be prejudicial to the public interest. Where it has been determined that the *SBITC Act* and *General Regulation* have not also been complied with, the Executive Director may make a determination to revoke the letter of non-objection on the basis that the offering would be prejudicial to the public interest.

PART 5 – PERMITTED PROMOTIONAL ACTIVITIES

Permitted activities

19. (9) A CEDC is permitted to distribute other shares under other available prospectus exemptions at the same time as it is doing an offering under the Instrument in conjunction with the *SBITC Act* program. These other shares are not eligible for investor tax credits under the *SBITC Act* Community Economic Development Corporations or Cooperatives tax program. Only securities distributed using the Instrument procedures are eligible. Full details of the concurrent distribution must be disclosed in the offering document.

PART 6 – ONGOING REPORTING REQUIREMENTS

Copies to security holders

22. We consider documents to have been made “reasonably available” to security holders if they are mailed to security holders, or if security holders receive an electronic notice that such documents can be viewed on a public website of the CEDC or a website accessible by all security holders of the CEDC that were acquired under the exemptions in the Instrument (such as a password protected website).

Prohibition against insider trading, informing and recommending

23. Securities legislation prohibits any person in a “special relationship” with an issuer from trading in securities of the issuer while in possession of material non-public information (insider trading) or from informing or recommending any other person of the material non-public information, other than in the ordinary course of business (this is also known as “tipping”). Under securities legislation a “person in a special relationship” includes insiders, directors, officers and employees of the issuer. A CEDC that has met the requirements of the Instrument, *SBITC Act* and *General Regulation*, and has completed the initial closing will be subject to the same prohibitions on insider trading, informing and recommending that are applicable to issuers under section 147 of the *Securities Act*. A person in a special relationship with the CEDC will be subject to prohibitions in that section as well and may rely on the defences for insider trading, informing and recommending set out in the *Securities Act*.

PART 9 – DIRECTORS AND OFFICERS

Directors and Officers

28. Directors and officers of a CEDC must be fit and suitable to manage the affairs of a CEDC. To that end, among other things, we will look at those individuals’ education, training and experience and how that supports their role with the CEDC. We will also look at previous experience with CEDCs as well as with business ventures generally. Individuals must conduct themselves with integrity and have an honest character. We will also look at the overall financial condition of the individual. A person who is insolvent or has a history of bankruptcies may not be a person suitable to act as a director or officer of the CEDC.