

November 12, 2020

VIA EMAIL

Secretary, Financial and Consumer Services Commission  
85 Charlotte Street, Suite 300  
Saint John, NB E2L 2J2  
[secretary@fcnb.ca](mailto:secretary@fcnb.ca)

Dear Sirs/Mesdames:

**Re: Proposed Local Rule 45-509 and Proposed Companion Policy 45-509CP  
*Community Economic Development Corporations (“CEDCs”) and  
Cooperatives (collectively, the “Proposed Rule”)***

The Canadian Advocacy Council of CFA Societies Canada<sup>1</sup> (the “CAC”) appreciates the opportunity to provide the following comments on the Proposed Rule.

We understand that the new rule will update the current registration and prospectus exemptions for CEDCs and cooperatives, as well as reflect New Brunswick’s new *Cooperatives Act*. As a general comment, we are supportive of measures taken to try to assist small and emerging companies to finance their growing operations without compromising investor protection. We are also strong supporters of harmonizing Canada’s registration and prospectus exemptions across provincial jurisdictions for ease of use and common understanding by issuers and investors.

While we recognize that the exemptions provided in the Proposed Rule are complementary to other registration and prospectus exemptions that may be available, including the offering memorandum exemption in NI 45-106 *Prospectus Exemptions* (“NI 45-106”), we think it might be useful for both issuers and investors if the Companion Policy included a brief explanation of how the exemptions in the Proposed Rule and the disclosure required in the offering document differ from the requirements under the offering memorandum exemption.

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<sup>1</sup> 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](http://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 more than 177,600 CFA charterholders worldwide in 165 markets. CFA Institute has nine offices worldwide and there are 160 local member societies. For more information, visit [www.cfainstitute.org](http://www.cfainstitute.org).

We note that Form 45-509F1 *Offering Document for Community Economic Development Corporations and Cooperatives* has been modified from Form 45-106F2 *Offering Memorandum for Non-Qualifying Issuers* to include only disclosure that would be relevant for CEDCs, but the forms are otherwise quite similar. We support the proposition that the same disclosure forms for various offerings (such as syndicated mortgages or CEDCs) should be utilized and then modified as needed to reflect the unique nature of the offering.

As the CSA continues to examine the use of the offering memorandum exemption in the proposed amendments to NI 45-106, we would encourage the Commission to continue to update the offering document requirements under the Proposed Rule as applicable. For example, the proposed amendments to NI 45-106, if enacted, would require additional disclosure by issuers with respect to fees or limitations with respect to redemption or retraction rights, as well as any outstanding redemption or retraction requests. We believe this information would also be beneficial for purchasers of CEDC securities, particularly given the holding requirements related to the New Brunswick Small Business Investor Tax Credit.

Form 45-509F3 *Risk Acknowledgement Form for Community Economic Development Corporations and Cooperatives* is similarly intended to include only information which is relevant to CEDCs. We note that Form 45-106F4 *Risk Acknowledgement* contains some additional explanations for investors following the name and address lines for the issuer, including information on the nature of the exempt market, a warning about not getting advice on the purchase from a registrant and the importance of reading the information in the offering memorandum. We believe this additional information could also be helpful to purchasers of CEDC securities if included on Form 45-509F3.

We also have some concerns about the potential lack of audited disclosure on the financial condition of the issuers utilizing these exemptions. Currently, a CEDC's annual financial statements do not require a report of an auditor provided that one is not required by law, that a general review has been carried out by an independent accountant and that the financial statements are accompanied by a review engagement report. Given the fact that shares of CEDCs are not subject to a suitability assessment by a securities registrant at time of sale, we believe it is important that the annual financial statements provided to the Commission and to investors be audited.

We support the proposal to deem a CEDC a market participant, particularly as it will permit the Commission to conduct compliance reviews of CEDCs more easily.

### **Concluding Remarks**

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to

consider our points of view. Please feel free to contact us at [cac@cfacanada.org](mailto:cac@cfacanada.org) on this or any other issue in future.

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

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