Industry Canada Industrie Canada

Self-Study Guide

STEP 7:
Meet Potential Investors

Canada

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7.1 Meet Potential Investors – Introduction

Somewhere out there is an investor who may be interested in a company just like yours. But how do you contact that person? How do you introduce yourself and your idea to a potential investor? How do you get him or her to read your proposal and then agree to get together to see what you've got to offer? And, assuming there is real interest, how should you handle that first important meeting with a serious investor?

In This Step
You'll learn how to look into your community, your networks and your industry to find potential investors. You will also begin to prepare yourself for that important first meeting with an interested investor, and explore how to conduct yourself during it. During this meeting, as well, an investor begins the process of due diligence, and you will learn what to expect in this preliminary due diligence review. The key concepts are explored in the pages that follow.

- Reach Out to Investors
- Plan for the First Meeting
- Make It a Two-Way Meeting
- Use the Meeting and Presentation Planner
- Manage the Meeting Like a Pro
- Understand the Due Diligence Review
- Action Items

The New Tech Story
Follow the fictional company **New Tech Distributors Corp.** (New Tech) as it pursues venture financing. This case example gives you a feeling for the "real" data and strategic decisions you'll be facing.

7.2 Reach Out to Investors

How do you make contact with investors? Think back to the way you developed your business's clientele in the first place. You were "out there" all the time, weren't you, at meetings, events, conferences, shows, and so on. You introduced yourself to new people, and tried to interest them in your business. And when you met someone who might be a good prospect, you followed up quickly and positively to keep the momentum going. The same process applies when reaching out to investors.

Use your knowledge of your industry, your own good business instincts and your previous experience to reach out creatively to investors. They're usually found through:

- Personal referrals
- Social and industry gatherings
- Formal letters
- "Cold calls"

For more information, see *Tips on Contacting Potential Investors* in the Appendix.

There are legal and regulatory implications that influence the method and number of investors you may want to contact. See the *Legal and Regulatory Overview Tool* in the Appendix for details.

Personal Referrals

Risk capital investors rely heavily on referrals. So you have a much better chance of connecting with an investor if you work through a mutually respected intermediary, someone who has established a good relationship with both you and the investor. The advantage is that a go-between with proven credibility and integrity will be someone both parties trust. This kind of personal referral will make it more likely that your proposal will be read.

The people who may be able to introduce you to potential investors include bankers, accountants, financial advisors, lawyers, business community contacts, and friends.

To get a referral, you'll first have to convince the intermediary that your proposal is a worthy one. Intermediaries have to believe in your investment proposal so they can present your case sincerely to their contacts.

Social and Industry Gatherings

Social gatherings, industry meetings, local business organization meetings, investor forums or cocktail parties are excellent opportunities to meet potential investors.

Such meetings are also a good way to meet intermediaries - people who aren't going to be investors themselves, but who have a network of contacts that may include potential investors. Joining the Chamber of Commerce, Board of Trade or other organization, and participating in community activities can also extend your network, getting you closer to potential investors.

Do...	**Don't...**
• make your initial contact warm, cordial and non-threatening. • lay the foundation for a future meeting. • leave the person with a positive and favourable impression about you and your company. • think of each contact as a way of extending your network.	• intimidate your potential investor. • dominate the investor's time. • leave the impression that you're trying to "trap" the investor into a relationship with your company. • expect each contact to be the investor you've been dreaming about.

Formal Letters

Sending a formal introductory letter is another way to establish contact with an investor. If you use this approach, present concise information about yourself, your business and your project. Give an overview of your business intentions. Emphasize the unique characteristics of your investment opportunity. You might want to include the executive summary from your investment proposal.

Cold Calls

Making a brief telephone call is another way to initiate contact with a potential investor. This approach allows both of you to determine whether there is a mutual interest and, if so, to exchange preliminary information.

If you do speak to the targeted investor, keep your introduction short. Make sure your remarks are well organized and, most important, project a positive attitude about your investment intentions. The time to catch the potential investor's interest is very short!

7.3 Plan for the First Meeting

You've spent valuable time preparing and writing your investment proposal. You've done the networking and digging to establish contact with investors who were willing to look at your proposal. Finally, it pays off when you get a call: can you meet with the investor the following week? Your next goal is to make the meeting work for you. But how?

What to Expect

Usually, only a small group of people — you and your advisors, your potential investor and the investor's advisors — attends this first meeting. Depending on your strategy, members of your management team may play different roles.

The whole meeting might last from 30 to 60 minutes. This includes:

- your formal presentation;
- a question and answer period; and
- preliminary decisions as to the next step, if applicable.

If the meeting is held at your location, a tour of the facilities might also be appropriate.

What It's About

The first meeting with your targeted investor is the opportunity for you to make a convincing face-to-face presentation. You want to make your investment proposal come alive and to convey your passion and vision for the company. During the meeting, the investor will be looking for your belief in yourself and in your product or service. And he or she will be trying to judge your credibility and integrity.

The meeting is an exploratory session — a great opportunity for both parties to assess the likelihood, and the benefits, of establishing an ongoing relationship. In this meeting you'll get to see first-hand how the other party operates. It's here that you'll decide whether the chemistry between you is genuine and whether you'll be able to work together. As many entrepreneurs have discovered, the chemistry is critical.

How Formal Should You Be?

Don't make the mistake of assuming that the first meeting should be casual with very little preparation needed. By all means, be relaxed and friendly. But you've come too far to let poor preparation undermine your chances. Be well prepared and conversant with all aspects of your operation and your presentation. You should have a sound grasp of what your message is and how you are going to deliver it to the investor.

Before the Meeting

Here are some tips for preparing for a meeting with a prospective investor:

- Plan the meeting carefully.
- Send the proposal before the meeting.
- Ask what the investor's needs are in advance.
- Consider the details: meeting room, equipment, dress.
- Rehearse your presentation.

Take a Closer Look

Preparing for the First Meeting

Planning, rehearsing and communicating are all things you should do. Consult *Preparing for the First Meeting* in the Appendix.

Effective Meetings

You can learn more about the art of good meetings from Key Skills module 2, Get the Most Out of Meetings.

Entrepreneur Stories

Chemistry is Critical

Private investors will sometimes invest in a project that does not fit their initial preferences if the "chemistry" is right. Innov International, a Quebec-based manufacturer of office furniture systems, was able to attract an investment from a private investor who had intended to invest in an agri-food company, but who was convinced to invest in the office furniture manufacturer by the company's founder, Pierre Martin.

Mr. Martin's enthusiasm for the project and his solid background and contacts in the industry convinced the investor to invest in the company and become an active member of the management team.

7.4 Make It a Two-Way Meeting

You know that during the initial meeting the investor will be taking a very close look at you and your proposal. He or she will have a set of questions they want answers to. But as much as you want the opportunity to deliver your message, the meeting is not a one-way street. It's also an opportunity for you to learn about your potential investor. During the initial meeting, you should be judging the investor as carefully as the investor judges you. To achieve long-term success, a relationship has to work both ways.

The meeting will be most effective if you can both anticipate the investor's questions and get your questions answered.

What the investor will be looking for in the first meeting:

Who are you?	• Are you the type of individual I want to do business with? • Do I believe you are a competent, credible person of integrity? • Do you have the requisite personal skills to guide the company's growth and implement its strategic plan?
What is your track record?	• What have you done with the company to date? • What is your track record with other projects or companies? • Do you have experience in the market you want to take the company into?
What is your commitment?	• Will you continue to have a significant financial commitment to the company? (One of the reasons some companies pursue new investors is to fund the buyout of the existing owner. Potential investors often find this disconcerting. Frequently, one of the key things an investor is buying is you and your capabilities as a successful entrepreneur. In other words, you are often the

	magic.)
Do you have a solid management team and, if so, who is in charge of what, and why?	• Are all of the important areas covered? (Sales/marketing, production/research and development, and finance/administration.) • Are the individuals occupying these positions competent and experienced? • What are their individual track records? • What is the basis for the executive compensation packages? • Is the size of the management team excessive for the size, complexity and growth potential of the business? • If you are an older individual, is there a succession plan for a new generation to take over your responsibilities? Are there other individuals within your company who can assume increasing responsibilities?
Were the assumptions used to project revenue growth reasonable?	• Can you justify your assumptions? • Are they consistent with historical trends? • Have you considered various scenarios? • Is the growth reasonable in relation to what is happening in the industry? • Is it reasonable when comparing it to the state of the economy or industry?
Does your company have a competitive advantage?	• Is technology a barrier to other companies that might want to enter your market? • Is there copyright or patent protection? • Do you have a unique position in the market or within the industry? • What differentiates your company or products from your competition?
Is there a viable exit strategy for this investment?	• What are the implications of your proposed exit strategy? • Are there other available exit options? How viable are these options?
How will the financing strategy influence the business strategy?	• How will my funds be used? • Will the additional investment assist the company's growth? • Has the investment been considered in the various projections and forecasts you have presented? • Are other investors being approached?

What you will be looking for during the meeting:

Does the investor believe that your financial projections are	Sometimes, an experienced investor can give a great deal of perspective on what private investors want in

reasonable?	terms of acceptable risks, required returns, valuation, amount of financing available, financing terms and potential exit strategies.
Does the investor understand your specific requirements?	Although this matter may be clear to you, it may not be obvious to the investor. The initial meeting is a way to provide clarification and additional explanations.
Does the investor require additional information?	The investor may want more information before proceeding to the next stage and may want it to provide clarification before a follow-up meeting.
Does the investor have access to the type and amount of capital you believe is needed to fund your project?	Only clear dialogue will enable you to assess properly whether the investor shares the same views related to your requirements and has the necessary resources to match them.
Does the investor plan to take an active or passive role in the management of your company?	Entrepreneurs and investors sometimes have very different perspectives on the degree of ongoing involvement.
Does the investor have the experience and the ability to work with your management team to improve your firm's operating and financial performance?	Investors may bring with them: • knowledge of your industry; • business contacts (including other investors); • general business management experience.
Is the investor someone you could talk to about the challenges, opportunities and threats that face your business?	• Could the investor become someone who could help you by: • asking pertinent questions? • helping you discover opportunities and advantages? • providing you with serious advice on important decisions and projects?

7.5 Use the Meeting and Presentation Planner

Use this page to:

- Plan Your Meeting Strategy
- Organize Your Message
- Prepare for Investors' Tough Questions

Plan Your Meeting Strategy

How are you going to deliver your message? Ask yourself the following questions:

What parts of the presentation will you deliver personally?	
What parts, if any, will be delivered by other team members?	

Which advisors and members of your management team will attend?	
What facilities do you need for the presentation (meeting rooms, computers, projectors, etc.)?	
What materials will you need during the meeting (prototypes of your product, handouts, presentation materials, etc.)?	

Organize Your Message

See if you can write short answers to each of these questions. If you can, you're on your way to delivering a concise and informative presentation and you'll be ready to answer questions effectively.

Your oral presentation must focus on the investor's needs. He or she will want to know:

the amount of funds you require	
how you will use the funds	
the financial return expected from the investment	
the risks related to your proposed venture	
the possible exit strategies (when and how the investor could expect to realize a return on the investment)	
the competency and credibility of the members of your management team	
your products/services and their growth and profit potential	
the size of your target market and justification for growth potential (focus on what would cause the investor to believe your assumptions are reasonable)	
your position in the marketplace and your competition	
the investor's likely day-to-day involvement in your business	
what makes your company unique and distinctive, and gives you a competitive advantage	
the obstacles or threats your business faces (to show you are realistic about the future and to enhance your credibility)	

Prepare for Investors' Tough Questions

Most investors come to the meeting having done their homework. And generally they have identified your company's weaknesses. So be prepared to handle some tough questions. Brainstorm apparent weaknesses in your proposal and come up with logical and honest responses to each.

Weaknesses/Potential Questions	**Explanations/Answers**

7.6 Manage the Meeting Like a Pro

The first meeting usually sets the tone for future get-togethers. If it doesn't go well, you'll have a hard time regaining the investor's interest, so make every effort to come to this meeting well prepared, enthusiastic and aware of the investor's needs and perspectives. Here are some guidelines for getting the first meeting right.

Time Your Arrival

If you took responsibility for the location, arrive early to double-check the room. Get your equipment and material set up, and then be ready to welcome the investor warmly at the door. If you didn't arrange for the location, arrive on time.

Set Up the Agenda

Make sure everyone gets a copy of the agenda and other handouts. Ask about the investor's time constraints and make sure they are respected. Introduce your management team, and then present an overview of your business venture. If appropriate, suggest a tour of your facilities before getting into the details of your investment proposal. A tour gives the investor a better understanding of your business and the products or services you sell.

Make Your Presentation

This is where your dress rehearsals pay off because you know that you can deliver a polished performance. But first, find out if the investor has read the proposal. If so, you will be able to proceed more quickly through your presentation, then zero in on particular areas of interest or concern. Depending on the size of the group, it may be appropriate to show slides on the key components of your presentation. Remain enthusiastic throughout your presentation and be confident about your business venture.

Be Ready for Some Tough Questions

Keep in mind that the investor wants to know how you think, how you solve problems, how you deal with others and much more. The investor will ask questions that will put pressure on you to see how you react.

Often the investor will want to zoom in on your firm's strengths and weaknesses. Be prepared to respond. Never bluff. If the investor raises an issue you are unsure about, make a note of it and promise to have an answer for the next meeting.

Respond to Body Language

Watch for signs of interest, confusion or boredom and try to respond accordingly.

- Is the investor sitting attentively and taking lots of notes?
- Or is there a quizzical expression on the investor's face?
- Can you make positive eye contact with the investor?
- Are the investor's questions pertinent?
- Pay attention to the investor's tone of voice: is this person bored or enthusiastic?

Know Your Stuff

Be prepared to go into the details on any portion of your investment proposal. Have others on your team help if you can't comfortably respond to questions from the investor. While you might be strong technically, you may need your controller or sales manager to explain the details of your financial projections. If the meeting gets bogged down in details, suggest dealing with the matter near the end of the meeting.

It's a myth that private investors will make their decisions of whether or not to invest based primarily on a company's historical financial performance. Most investors focus their attention on the company's current financial position and your ability as a manager to drive the business forward. You are often the "magic" they are looking for to realize their opportunities.

Be Straight

Be honest and forthright. It's important for the relationship and for your credibility that you answer all questions honestly, adequately and fairly.

Stay Focussed and Calm

Maintain your composure and patience. Remember that you have been intimately involved with your business for many years. Sometimes, the potential investor may ask questions that are difficult and show a lack of understanding. It is important that you maintain your composure and do your utmost to respond to the questions in a calm and poised manner, and that you do not talk down to the investor.

After the Meeting

Think of each meeting as a learning experience. Afterward, take a few minutes to assess how successful you were. Write down any concerns the investor raised so that another time you'll be prepared to address them more effectively.

Use the *Post-Meeting Checklist* in the Appendix to assess the meeting. Or ask the investor directly to give you feedback on your proposal and presentation.

Take a Closer Look

Ask for Feedback

Investors who have read your proposal and listened to your presentation can probably suggest ways to improve your proposal or your dealings with other investors. Their advice, whether or not they decide to invest in your company, is invaluable.

You might also ask an advisor to attend the meeting to comment on your performance. Here are typical questions you might want to ask an observer.

- Was the investment proposal clearly written?
- Were there any important points missing in the investment proposal? What about the presentation itself?
- Was the investment proposal credible? Were the data and assumptions believable?
- Did the management team make a good impression? Was the chemistry apparent?
- Did the market appear to be large enough? Did it appear to be real?
- Did the investor appear to be interested in the product? In the industry?
- Were the financial projections and analysis presented thoroughly?
- Were the strategies and plans realistic in terms of the goals contained in the investment proposal?

Entrepreneur Stories

Bfound.com's Practice Pitch

Bfound.com, a west coast high-technology firm, did several "practice pitches" to develop and refine their meeting approach. They worked with VIATeC (the Vancouver Island Advanced Technology Centre), a local industry association, to develop their proposal and meet investors.

Bfound.com did a practice pitch to VIATeC staff, after which the Bfound.com management team presented their proposal to an investor forum in Vancouver and to a venture capital fund. Although these initial presentations did not result in financing, the practice in presenting the investment opportunity and the contacts that were made were very valuable.

7.7 Understand the Due Diligence Review

The Meeting as the First Step in Due Diligence

You can think of the meeting, and the investor's questions and requests for information, as high level due diligence.

Before investing cash into your business, your investor will want to investigate the details of your investment opportunity. This investigation is called a due diligence review. The review is like a reference check for a job applicant. It's a way for the investor to get outside, objective information on you, your business, and your proposal.

The due diligence review starts at the initial meeting, and, if a deal emerges, it continues until the deal is closed. A complete due diligence review is typically conducted when an agreement has been reached between the investor and the entrepreneur. But even the initial meeting is the beginning of the investor's review process.

Intense Questioning Is a Good Sign

The due diligence review is a normal and integral part of an investment transaction. If you are faced with questions and requests from potential investors, remember these two points:

- Maintain your composure. Try to understand comments from your investor's point of view, and do your utmost to respond with candour and honesty.
- Recognize that an intense due diligence review is usually a sign that the investor sees your business as an interesting concept to invest in.

The entire process can take several weeks to complete. If you've worked your way through the earlier Steps in this guide, then you've already addressed the main issues of the due diligence review in your investment proposal.

Take a Closer Look

Why Investors Conduct Due Dilligence
The due diligence review has two objectives. First, it convinces the investor that the business venture described in the investment proposal is real and credible, and that the plans are sound and realistic. Second, it can be used by the investor to help prove (if needed), during a subsequent lawsuit, that all reasonable steps were taken to determine that the investment was sound.

Elements of the Due Diligence Review
It's quite possible that you've already addressed these issues in your investment proposal. In any case, here is the kind of early due diligence activity you can expect during your initial meeting.

Questions Based on Materials Received Before the Meeting
Normally, potential investors will start evaluating your material to see whether your investment opportunity is worth pursuing. For example, they may analyse your company's historical financial performance and compare it to meaningful industry norms or benchmarks. Or they may raise questions to be discussed with you during another meeting.

References
A potential investor may want specific references such as customers, suppliers and bankers. From the investor's perspective, this is a quick and inexpensive way to add substance to your written materials and to confirm your credibility.

Tour of Your Facilities
This is essential in obtaining an understanding of your business and of how you go about managing your operations. If possible, and when necessary, arrange relevant demonstrations of your product(s). An experienced investor will benefit from a tour by seeing, first-hand:

- evidence of activity levels throughout your plant;
- indications of excess or obsolete inventory;
- general upkeep of your facilities and equipment maintenance practices;
- size and make-up of your labour force; and
- indications of operating efficiencies or inefficiencies (e.g. plant layout).

Credit Bureau Reports
It's normal to obtain credit bureau reports (from Dun & Bradstreet/Creditel, for example). Potential investors won't use these reports to evaluate your worthiness; more likely, they'll use them to double-check that the information in your investment proposal is solid.

Management Team and Individual Track Records
Your investor will want to get specific information about you and the members of your

management team regarding education, experience, specialized skills and age. The investor may ask for this information if it was not provided in your investment proposal.

Financial Track Record
Investors will often want to review copies of your company's annual financial statements. Normally, they will analyse the last three to five years (if available) prepared by your public accountants (e.g. audit or review reports). As an alternative or in addition to these reports, they may want to examine the financial statements filed with your corporate income tax returns for the same periods as well as other supporting internal financial documents.

Details About Data and Assumptions in Financial Forecasts
Here are some of the questions you should expect from your investor about the data and assumptions you used in your financial forecasts:

- Is the projected growth in revenue and profit reasonable in comparison to historical, industry and general economic performance? If not, are there market studies or other information to justify your financial projections?
- Are management's explanations for variances between historic performance and projected results illusive? Do they make business sense?
- Is management being reasonably conservative with the planning assumptions?
- Has management considered the financial effects if the projections are not realized? Have contingency plans or "what-if" scenarios been prepared?
- Does your company have the capability in terms of facilities and people to accommodate the projected sustainable sales growth?

7.8 Action Items

In this Step you looked at how to contact targeted investors; how to prepare for your first meeting; and what level of detail to present during the first meeting. You've also considered how to conduct yourself during the meeting, and what is involved in the due diligence review.

The following checklist will help you to:

- assess your understanding of the ideas covered in this Step;
- gauge your progress; and
- plan your company's approach.

Checklist

Activities	Status	Target Date	Responsibility
1. Look creatively and widely for potential investors, through: • personal referrals • social and industry gatherings • formal letters • "cold calls" • networks, professional groups or associations, business contacts, economic development organizations, and so on.			
2. Anticipate the first meeting. • Begin developing and rehearsing your presentation. • Organize yourself in advance: agenda, location, equipment, handouts, etc.			
3. Consider two points of view: the investor's and yours. • Anticipate the investor's needs. • Identify you own questions and issues for the meeting.			
4. Manage the meeting effectively. • Remember to follow through on your preparations. • Be observant and respond to the investor's reactions. • Carry out a post-meeting assessment with your team.			
5. Anticipate and understand the due diligence review. • Expect the investor to begin due diligence early. • Be open, not defensive. • Recognize that due diligence is a positive sign.			

Appendix

Take a Closer Look - Tips on Contacting Potential Investors (see section 7.2)

Finding an Intermediary

- First, and most important, get clearly in your mind that you are not trying to catch an investor like a fish in a net. You are seeking information about people who might be interested in your company, and you are giving out information about your business. Let this set the tone for every contact you make.
- Write a one-page company update in which you describe positively and briefly your company's current stage of development. Finish it up with a final paragraph that indicates that you are now looking for investors, and would appreciate suggestions about people to approach. Make sure to include complete contact information so people know how to reach you. Send it to everyone on your mailing list.
- Make contact with local business development organizations, such as the ones in the CCIP program, your local Board of Trade, the Chamber of Commerce, your municipality's economic development group, and so on. Look for a mentor or a friendly contact who will be helpful in getting your name known and introducing you around.
- Set up short meetings with your banker, accountant, lawyer, investment manager, etc. Explain briefly what you are trying to accomplish, and ask for their help. Leave them with your one-pager as a reminder.
- Hold a "We're Open for Growth" event on your business premises. Showcase your products and services, your management team and your staff. Invite clients, business contacts, local politicians, friends and colleagues. Make sure everyone from your company is primed with the message that you are a great opportunity for the right investor.
- Don't rule out anyone as a possible lead who may know someone who knows someone who knows…you get the picture. Your dentist, doctor, former professor, fitness instructor, or even your Uncle Gerry - all of these are people who know other people. Remember, the right investor may be just one person away from you now, but you have to get the word out.

Meeting Investors in a Social Setting

During the social event, start a general discussion to find out whether the person is in the capital investment business. Many people are interested in listening to ideas and concepts but few are "authentic" investors. Provide the investor with a brief overview of your company and its prospects, and mention that you might be interested in attracting private investment capital. Exchange business cards.

After the event, write to the investor. Send a summary of your proposed business venture and say you'll call in a few days to answer questions about your project. By the time you call, the investor will have had a chance to check out you, your company and your industry. During your conversation, decide whether the person has a legitimate interest in pursuing your business opportunity. If you have to leave a voice message, be brief, be positive, be non-threatening. Say you'll call again at a specific time.

Sending a Formal Introductory Letter

The introductory letter must be concise. It must make a favourable impression and attract your investor's attention and interest.

Pique the Investor's Curiosity
Tell the investor about yourself, your business and your project without loading on irrelevant and abundant details. Summarize your investment opportunity and provide just enough information to pique the investor's curiosity and interest. That way, the investor will want more details that you could provide at a follow-up meeting. If the letter is too drawn out or poorly organized, you lower your chances for a follow-up phone call and meeting.

Emphasize Unique Characteristics
Your letter should emphasize the unique characteristics of your investment opportunity. Focus on your company's products and services, and its position in the marketplace. Provide an overview of key members of your management team, emphasizing their strengths, competencies and related industry experience.

Sample Letter

(*your address or letterhead*)

(*date*)

(*name, title and address of the potential investor*)

Dear (*investor's name*):

Bernard Larose of the Westlake Business Development Centre suggested I contact you to introduce myself and my company.

Our firm, PlantSecur Inc., is a solid competitor in the field of warehouse and industry safety and security products. We have been in business since 1991, and during that time have developed three items of safety equipment that are recognized in Canada and around the world for their superior performance: a fireproof helmet with unique features found in no other similar helmet, "smart" safety gauntlets, and a breathing apparatus that is unusually light and sturdy.

We currently supply many Canadian companies with these and additional products, and in the past two years have begun to receive interest and orders from the international marketplace as well. I recently participated in a Canadian Trade Mission to western Europe, and found there is a great deal of interest in Germany and France for the type and quality of equipment we design and supply. We feel this is an excellent time for us to explore additional opportunities for exporting our products, as well as continuing to develop our Canadian base of customers.

We are now looking for investors to help our very successful company to grow, and Bernard thought you might be interested in learning more about us and our plans for the future. I am enclosing the executive summary from our investment proposal, as well as some promotional materials that describe our products in more detail. I'll call you in a few days to see if you would like to get together to explore whether there is a fit between your interests and our company's goals. In the meantime, please contact me if you have any questions or would like additional information.

I look forward to talking with you soon.

Sincerely,

(*your name and title*)

Making the Most Out of a Cold Call

If you're going to make a cold call, know in advance exactly what you want to say. Don't read from a written script but, by all means, follow a written outline of the key points you want to cover.

The telephone isn't the easiest medium to work with. You have to make an extra effort to convey self-confidence, composure, enthusiasm and business knowledge. Try to speak at a normal speed and volume. If you try to explain too much in too short a period, the investor may assume that you're nervous, which could reflect badly on you.

Introduce Yourself

Introduce yourself and decide whether the person has a few minutes to listen. If you continue, give the investor an overview (speaking in a calm and positive manner) of your company and its potential for future growth.

Allow for Questions

Allow the investor to ask questions. Don't be defensive about inquisitive and penetrating questions. Remember that your potential investor knows little or nothing about you and your company at this point. Questions are usually a good indication that the investor is interested in learning more about your business venture.

Ask for a Meeting

The investor will probably want more information before granting you a meeting. This is normal and you should be prepared to respond quickly to requests for a follow-up letter with the executive summary of your investment proposal.

Leave Your Name and Phone Number

The amount of material you forward depends largely on the investor's level of interest during the phone call. At the very least, leave the investor with your name (spell it) and telephone number.

If you do arrange a meeting, make sure the investor receives background materials about your business venture well ahead of time. Many potential investors want to review documents before a meeting. This is a good sign: it suggests that the risk capital investor is interested in your business venture.

Advantages of a Cold Call
The main advantage of a cold call over an introductory letter is that you establish personal contact and a more solid foundation for a follow-up meeting. The cold call can also help you weed out risk capital investors who are not likely to be serious about your project. This increases the time you have for the more serious prospects.

Telephone Scripts
Telephone scripts are very useful for ensuring you keep on track and cover the most important information. They can make you sound stilted and unnatural, however. To overcome this problem, practise on the phone, talking to a tape recorder or to a friend. Better still, ask a colleague to help you by role playing the telephone call. Try out both roles - caller and potential investor - to help you develop insight into how your offering and your message come across.

Sample Cold Call Phone Script

This is _______________ with ______________________. We specialize in ___________________________. Our firm has been very successful in this field, and we are currently planning an expansion to take advantage of new markets and new opportunities. I'm calling you because we're looking for people who are interested in investing in a company with a sound track record and strong future prospects.

Questions to Continue With:

Have you heard of ________________ (company name)?
Are you considering investment in a growing company?
Have you invested in this way before?
What factors are important to you in deciding on investments?
Could we schedule a short meeting to explore the possibilities further?
Would you like to look over some more information about our company and our investment proposal?

Legal and Regulatory Overview (see section 7.2)

Overview of Prospectus-Exempt Financings: A Legal Perspective

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**The issues addressed in this paper are complex and fact specific, and may vary in application from jurisdiction to jurisdiction. This paper is intended to provide only an overview of the concepts introduced here, and does not offer professional advice for any particular situation, nor does it address the issues completely or address all legal issues which may be related to the matters described here. The reader is urged to consult with an advisor who is knowledgeable in the area of the legal implications of conducting financings and, moreover, is familiar with the requirements of the specific provincial jurisdictions which apply to the offering.*

Introduction and Overview

There are three fundamental principles of securities legislation: the efficiency of capital markets, the integrity of capital markets and investor protection. These principles are very much interrelated in that the integrity and efficiency of the capital markets are fostered, if not maintained, when investors are entitled to rely upon adequate and appropriate safeguards in making their investment decisions. The method and extent of these safeguards vary somewhat, depending upon the route taken by an issuer in gaining access to the capital markets. Under no circumstances, however, does the maxim "let the buyer beware" have any application. The questions, rather, are what is the appropriate gaining in the circumstances of the particular offering, and how to balance an investor's ideal wish for a guaranteed winner and the issuer's desire to raise capital without being exposed to liability in the event things do not turn out as hoped.

Securities legislation in Canada essentially provides three ways of distributing securities:

(a) pursuant to a prospectus which is filed with, and cleared by, the securities regulatory authority (typically a securities commission) in the relevant jurisdiction;

(b) by relying upon one or more statutory exemptions from the prospectus requirement (generically referred to as "private placements") in circumstances where the disclosure document, if any, is not required to be reviewed by the securities regulators (but is required to be filed); or

(c) by obtaining exemptive relief from the relevant securities regulator.

Securities regulation in Canada is a matter of provincial jurisdiction and, accordingly, each province of Canada has its own legislation regulating securities-related matters. Nevertheless, many of the principles and substantive provisions of the legislation in the various provinces are similar in approach.

The Concept of Trading or Distributing Securities

A "trade" in securities is defined broadly and includes any sale or disposition of securities for valuable consideration—but does not include a purchase of securities. In this way, the applicable securities legislation regulates the vendor of securities, but does not regulate the purchaser of securities. Trade is also defined to include any act, advertisement, solicitation, conduct or negotiation directly or indirectly in connection with a sale of a security. For the purposes of the applicable securities legislation, "distribution," where used in relation to trading in securities, includes a trade in securities of an issuer by that issuer (e.g., from treasury).

Commonly Used Exemptions from Prospectus Requirements

In describing a distribution of securities effected pursuant to a prospectus exemption, the term "private placement" is often used. While these different types of offerings are frequently referred to, collectively and generically, as private placements, the different prospectus exemptions result in different practical implications.

The policy behind certain exemptions from the prospectus requirements being permitted is that in certain situations investor protection does not require the detailed disclosure of the proposed investment or it's prior review by the securities regulators. This is frequently because the sophistication of the investor (or the "deemed" sophistication of the investor arising from the size of the investment) suggests that the investor does not "need to know" the information which would ordinarily be contained in a prospectus (i.e., that such an investor is in a position to dictate what protections are appropriate to, or necessary for, that particular person).

The use of certain prospectus exemptions can be beneficial for a number of reasons. First, the delay and the costs inherent in preparing a prospectus can often be prohibitive. Second, in certain circumstances a disclosure document may not need to be prepared. Third, even if such a document is required, the information to be provided in an offering memorandum is generally left to the discretion of the issuer and its counsel, provided that anything included or omitted does not amount to a "misrepresentation." Nevertheless, in some jurisdictions reliance upon certain prospectus exemptions necessitates the preparation of an offering document containing prescribed information.

Statutory exemptions are essentially self-policing, and each element must be reviewed to be satisfied that the issuer is entitled to rely upon a particular exemption. Since many exemptions are based upon the type of investor or facts which relate to the investor, part of this review typically includes obtaining statutory declarations or representations and warranties from the investor as to such facts. Issuers should not, however, blindly rely solely upon such declarations and representations (particularly if the circumstances of the situation suggest that the issuer knows or ought to know that they are likely to be incorrect), but should make reasonable enquiries and investigations to ensure that this reliance is appropriate.

Private Company Exemption
For very early stage financings where the promoter is relying exclusively on family, close friends and pre-existing business associates, one frequently relies upon the prospectus exemption under the applicable securities legislation which exists when one is issuing securities of a "private company" to persons who are not considered to be members of the "public" for the purposes of securities legislation. A "private company," which is defined more specifically in the particular province's securities legislation, is generally considered to be one which has, in its articles of incorporation restrictions on the transferability of its securities, a provision limiting the number of security holders to not more than 50 (not including employees and certain former employees) and a prohibition against inviting the publicto subscribe for its securities. There is generally no definition in the legislation as to which investors are considered to be members of the public for these purposes, and the courts and securities commissions have developed an extensive body of case law and precedent addressing the issue. A number of factors will be considered in making the determination, including the number of persons to whom the issuer tried to sell securities, the number of ultimate purchasers, the sophistication or investment expertise of the purchasers or their access to advice (including their capability to evaluate the merits and risks of the prospective investment), the net worth or ability of the purchasers to risk a complete loss of their investment, the relationship of the purchasers to the vendor, the manner in which the offering is made, the purpose of the offering and the circumstances relating to the vendor. In many cases, the courts and securities commissions have applied the "need to know" rule, whereby they consider a person not to be a member of the public if he or she does not need the type of knowledge about the issuer and the security ordinarily available in a prospectus. No one of the foregoing considerations will be determinative but, rather, the overall circumstance will be evaluated. The determination of who is or is not a member of the public is plagued with uncertainty, and the ultimate determination will be based upon a review of the salient facts—which determination and examination will always be viewed in hindsight often having regard to the views of the judge or the regulators as to whether protection should be extended to the investor.

If an investor is considered to be a member of the public (and, therefore, entitled to the more detailed protections of securities legislation), the trade to such person must be conducted in a manner which allows it to be exempt from the general prospectus requirements of the applicable securities legislation.

Seed Capital Exemption
The "seed capital exemption" is generally used in the relatively early stage of financing of companies in circumstances where the private company exemption is considered to be unavailable (because, for example, the offering is being made to members of the public). The applicable securities legislation should be reviewed to determine the specific eligibility criteria, including whether there is a minimum subscription required (which, for example, under a specific exemption in the British Columbia legislation, requires a minimum subscription of $25,000), whether a specified form of offering document must be prepared, the number of persons to whom an offer may be made, the sophistication requirement of the purchasers, the number of persons who may purchase in reliance upon the exemption and the period of time during which the offering may be made. For

example, in Ontario some of the conditions imposed under that province’s securities legislation are that:

> (a) solicitations may be made to not more than 50 prospective purchasers and result in sales to not more than 25 actual purchasers, each of whom must purchase as principal (such numbers being in respect of solicitations and sales in all jurisdictions, including Ontario); and
>
> (b) each purchaser must have "access to substantially all the same information concerning the issuer that a prospectus" filed under that province’s securities legislation would provide and must either be:
>
>> (i) an investor who, by virtue of net worth and investment experience or by virtue of consultation with, or advice from, a person who is not a promoter of the issuer and who is a registered advisor or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented by the issuer; or
>>
>> (ii) a senior officer or director of the issuer, or the parent, brother, sister, child or spouse (common-law or otherwise) of a senior officer or director.

Clearly, the policy behind the seed capital exemption is that an investor who is sophisticated, as evidenced by net worth, business experience, independent advice or close personal bonds of association with the issuer, is deemed to be capable of protecting his/her own interests and, by implication, is not in need of the same kind of investor protection as other investors.

Minimum Subscription Private Placement Exemption
The private placement exemption which is frequently referred to specifically as a "private placement" is based upon a minimum amount of the securities purchased by the investor which, depending upon the particular jurisdiction, varies from $97,000 to $150,000. Since it may be relied upon any number of times without a specific need for the investor to be provided with, or even have access to, any documentation or information, it is one of the most popular exemptions available. Under the applicable securities legislation, the only qualification of the exemption that generally applies is that the purchaser must purchase, as principal, securities having an aggregate acquisition cost of at least the specified amount. Certain securities commissions are of the view that neither corporations or syndicates, nor partnerships or other forms of unincorporated organizations should be created solely to permit purchases by groups of individuals whose individual share of the aggregate acquisition cost is less than the specified amount.

Disclosure Considerations: Documents and Concerns

Exempt Offerings: Offering Memoranda
There are no requirements governing disclosure documents for use in connection with securities issued in reliance upon the private company prospectus exemptions. Moreover,

no filings must be made with applicable securities regulators in respect of such financings.

Written material delivered to investors in connection with the seed capital exemption and the minimum subscription private placement exemption will frequently constitute an "offering memorandum" for the purposes of the applicable securities legislation. Business practice often dictates that comprehensive material be prepared for delivery to prospective investors to induce them to acquire offered securities. Each province’s securities legislation should be reviewed to determine what the specific requirements within that province are as to the need to prepare an offering document and what, if any, are the required contents of such a document. Moreover, the specific legislation should be reviewed to determine what, if any filings must be made with, and fees paid to, the applicable securities regulator as a result of the financing.

For the purposes of the Ontario securities legislation, for example, an offering memorandum is a document which:

(a) purports to describe the business and affairs of an issuer;

(b) has been prepared primarily for delivery to and review by prospective investors to assist those investors in making an investment decision; and

(c) is prepared in connection with a distribution being conducted in reliance on particular statutory prospectus exemptions, including that province’s $150,000 private placement exemption and the seed capital exemption.

A document does not need to be identified as an offering memorandum in order to be treated as such for the purposes of the applicable securities legislation. It could be identified as business plan or an investment proposal or otherwise. Technically, each separate document which fits the foregoing definition constitutes an offering memorandum for the purposes of the Ontario legislation (or, at least, all documents taken together will constitute an offering memorandum). Excluded from the definition of offering memorandum are documents setting out current information about an issuer for the benefit of prospective investors "familiar with the issuer through prior investment or business contacts." Also excluded from the definition, in certain cases, are the annual reports, information circulars, prospectuses and other documents the contents of which are prescribed by statute or regulation. These exceptions will not be discussed here.

When a security is distributed in conjunction with an offering memorandum in reliance upon the Ontario $150,000 private placement exemption or the seed capital exemption, it is generally required that the purchase be given a contractual right of action for rescission or damages in respect of any "misrepresentations" contained in the offering memorandum. These rights are to be described in the offering memorandum and generally correspond to those which a purchaser of securities under a prospectus would have. Moreover, in situations where one is relying upon the seed capital exemption in Ontario, the Ontario legislation requires that the investor have access to substantially the same information concerning the issuer that a prospectus filed under the Ontario securities legislation would provide; this is frequently satisfied by including such information in an offering memorandum.

In some jurisdictions outside of Ontario, the legislation prescribes what must be contained in an offering memorandum delivered in reliance upon certain of the prospectus requirements in such legislation. Neither the Ontario securities legislation nor the Ontario Securities Commission prescribes what an offering memorandum should contain. Given the self-policing nature of offerings pursuant to the seed capital exemption and the private placement exemption, such a decision is thought to rest more appropriately with issuers and their advisors.

The prohibition on an offering memorandum containing a "misrepresentation" implies, having regard to the definition, that the offering memorandum cannot:

(a) contain an untrue statement of a material fact; or

(b) omit a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made.

The term "material fact" means a fact that significantly affects, or would reasonably be expected to have a significant effect on, the market price or value of the securities being offered. Accordingly, once a decision is made to deliver an offering memorandum to prospective investors, it cannot contain only selective information. One cannot, for example, merely highlight the positive aspects of the issuer's business or deal only with certain areas of the business.

Clearly a prospectus standard of disclosure is not required in the offering memorandum, and something short of that is acceptable. Nevertheless, it is not unusual to find that the offering memorandum frequently resembles the format and appearance of a prospectus for practical, although not legal, reasons.

While the securities legislation does not provide that an offering memorandum be reviewed by staff at the applicable securities commissions, there is often a requirement that it be delivered to the securities commissions after completion of the offering.

It should be recognized that the legislation does not contemplate delivery of a draft offering memorandum. Each document (or version thereof) delivered to each investor (including various versions of the offering memorandum) constitutes an individual and separate offering memorandum which must include a contractual right of action.

Use of Future-Oriented Financial Information

It is not always necessary or appropriate to include in the offering document future-oriented financial information (FOFI) consisting of forecasts or projections. Nevertheless, the securities regulators have established a FOFI policy with respect to the inclusion of FOFI in certain specified types of offering documents. The FOFI policy is not generally considered to apply where the offering of securities follows the private company exemption.

A "forecast" is essentially FOFI prepared using assumptions which reflect the issuer's planned courses of action for the period covered, given management's judgment as to the most probable set of economic conditions. A "projection," by comparison, is FOFI prepared using assumptions that reflect the entity's planned courses of action for the period covered, given management's judgment as to the most probable set of economic conditions, together with one or more hypotheses (i.e., assumptions that assume a set of economic conditions or courses of action that are consistent with the issuer's intended course of action and represent plausible circumstances).

The policy relating to FOFI specifies the manner in which FOFI may be prepared, disclosed, pre-cleared, dated and subsequently compared with actual results, and also addresses the involvement of auditors with such documents. The FOFI policy applies to disclosure documents such as prospectuses and to offering memoranda prepared for use in connection with the seed capital exemption and the private placement exemption, but does not apply to offerings where the minimum acquisition cost under the offering memorandum is at least $500,000.

The requirements of the policy in connection with the preparation of FOFI are implicitly a list of why many issuers may find that they may not effectively rely upon FOFI in connection with their offerings. Among the requirements are the following.

> (a) FOFI shall be in the form of a forecast. Notwithstanding this, projections may be used for issuers engaged in a business with less than 24 months of relevant operating history or in certain other limited circumstances. A forecast or a projection may be used, but not both.
>
> (b) The period covered by the FOFI shall not extend beyond the time for which such information can be reasonably estimated (normally the end of the next year i.e., a maximum of 24 months).
>
> (c) FOFI prepared in accordance with the FOFI policy must be prepared in accordance with the CICA Handbook together with any additional requirements in the policy.
>
> (d) The need to pre-clear FOFI with the securities commissions in a province prior to filing a preliminary prospectus varies from province to province. Frequently, the requirement to pre-clear before the preliminary prospectus is filed only exists in connection with an initial public offering or in circumstances where an issuer is conducting its first public offering in the particular province. Otherwise, the FOFI is reviewed after the preliminary prospectus is filed and during the normal review process for the remainder of the preliminary prospectus.

(e) FOFI must be accompanied by an auditor's report, which shall not contain any reservations of opinion.

(f) The FOFI policy provides that FOFI (other than FOFI in an offering memorandum) shall be reviewed each time the issuer is required to file historical financial statements with the securities commission under its continuous disclosure requirements (i.e., both quarterly and annually) to identify material changes resulting from events that have occurred since it was issued. The FOFI policy also deals with updating the FOFI when a change occurs in the events or in the assumptions used to prepare FOFI that has a material effect on such FOFI. The securities regulatory authorities must approve of the withdrawal of FOFI when it is not being replaced by updated FOFI.

Most companies do not necessarily have expectations that their financial results will be particularly impressive within the 24-month period which is generally the outside date for the FOFI. As a result, the use of FOFI is not generally practical for use by such issuers.

Statutory Liabilities

Criminal Liability
The Criminal Code of Canada provides that every one who, "by deceit, falsehood or other fraudulent means," defrauds the public or any person, whether ascertained or not, of any property, money or valuable security is guilty of an indictable offence and on conviction is liable to imprisonment for 10 years where the value of the subject matter of the fraud exceeds $1,000 and lesser penalties where the value is under $1,000. The Criminal Code of Canada specifically provides that every one who, "by deceit, falsehood or other fraudulent means," affects the public market price of stocks, shares, merchandise or anything that is offered for sale to the public, is guilty of an indictable offence and, on conviction, is liable to imprisonment for a term not exceeding 10 years.

Quasi-Criminal Liability
The securities legislation of certain of the Canadian provinces provides that a director or officer who "authorized, permitted or acquiesced in" certain activities, including a breach by an issuer under the legislation (such as the issuance of securities without the preparation of a prospectus in circumstances where a prospectus exemption was not available), commits an offence and, on conviction, is liable to a fine and imprisonment. In Ontario, for example, the fine is up to $1,000,000 and the imprisonment is up to two years, or both.

Conclusion
At some stage in a company's development, it will likely be necessary for the founders to seek additional funding for the company's operations by attempting to get access to the capital markets. Securities regulation generally presumes that an offering of securities by an issuer must be made pursuant to a prospectus unless an exemption from the prospectus requirement is available. This paper has outlined some of the considerations for an issuer pursuant to an offering by way of private placement. The method by which the issuer

gains access to the capital markets and the types of prospectus exemptions which are relied upon will have a dramatic impact upon the requirements which are imposed upon (and the issues which should be addressed by) the issuer and its senior officers and directors before and during the offering, as well as on an ongoing basis.

Take a Closer Look – Preparing for the First Meeting (see section 7.3)

Plan the Meeting Carefully

The first meeting is usually short and not overly formal. But don't be fooled, even an informal meeting takes careful planning to make every minute count. The meeting will usually consist of a short presentation from your company, a time for the investor to ask questions, and a wrap-up that includes agreeing on next steps.

Understand clearly what you want to accomplish at the meeting. And know how you're going to deliver your message. It's a good idea to prepare an agenda (with timeframes) to keep on track and ensure the important points are all covered.

Send the Proposal Before the Meeting

Its important to forward a copy of your investment proposal to the investor in advance of the initial meeting. If the investor has the necessary background information, you will be able to proceed more rapidly and he or she will be able to zero in on their areas of interest.

Ask What the Investor's Needs Are in Advance

If you have an opportunity, ask in advance if there is anything in particular the investor wants to cover during the meeting. It's natural for you to phone and confirm details of the meeting, and this is also an opportunity to ask questions to help you prepare reasoned and comprehensive answers in advance. Remember that the investor isn't trying to ambush you but rather to ensure that the investment meets the particular tolerance for risk the investor has established.

Consider the Details: Meeting Room, Equipment, Dress

If you ignore small details, they may quickly turn into big nuisances. Think, for example, about where the meeting will take place. If you have been asked to arrange the location, choose a quiet, comfortable room where you won't be interrupted. Make sure it's the right size for the number of people attending the meeting. Will you want to show slides or distribute handouts on the key components of your presentation? If so, set aside time to prepare them, and to arrange for any equipment or copies you will need.

And pay attention to what you'll wear. In general, it's safest to wear standard business attire, as it shows respect for your guest and gives evidence that you cared enough to make an effort.

Rehearse Your Presentation

Most investors are part of a closely-knit community, and word of a clumsy and inarticulate presentation gets around quickly. Rehearsals help you smooth out your presentation, eliminate rough spots and give you confidence as a presenter. Stage several rehearsals. One is not enough. Be sure to test the equipment you will use during the real presentation.

Pretend each rehearsal is the real thing. Maintain your enthusiasm throughout your presentation and be confident about your business venture. Remember that your investor has something you want (capital), and you (with careful convincing) have something the investor wants (a good return). Do your utmost to persuade the investor that your business opportunity meets the investor's requirements in terms of expected return, level of acceptable risk, timing and exit strategy.

Tool – Post-Meeting Checklist (see section 7.6)

Date: ____________

Attendees: _________________
____
____

Duration: From _______ to _______

	Yes	No	Comment
1. Did the potential investor seem serious about pursuing the investment?			
2. Did the meeting proceed at a reasonable pace?			
3. Did the potential investor ask meaningful questions?			
4. Did the investor or his/her advisor take notes?			
5. Was the potential investor knowledgeable about the industry and the company?			
6. Was the company's and the potential investor's thinking about the degree of day-to-day involvement of the investor congruous?			
7. Does it appear both parties agree as to the nature, amount and duration of the investment?			
8. In hindsight, were there matters that should have been covered that weren't?			
9. Were there issues raised that show a significant weakness in a particular area of the business that have not been addressed?			
10. Did the investor appear satisfied with the depth of management in terms of selling/marketing, R&D/production and finance/administration?			
11. Did the potential investor appear to share your vision for the future?			
12. What arrangements were made for subsequent follow-up?			
13. Are your observations about the meeting consistent with those of others from your company who were in attendance?			
14. Do you feel comfortable with this potential investor as a business partner?			
15. If you could do something differently, what would it be?			
16. Did the meeting end on a positive note?			

Other Notes: