

## SASKATCHEWAN POLICY STATEMENT 45-601

### COMMUNITY VENTURES - SECTION 83 RULINGS

#### PART 1 DEFINITIONS

In this policy statement:

"**Act**" means *The Securities Act, 1988* (Saskatchewan);

"**Commission**" means the Saskatchewan Securities Commission;

"**Community Venture**" means a project located in a town, village, hamlet or rural municipality in Saskatchewan;

"**Director**" means the Director of the Commission;

"**Issuer**" means a person who or company which issues or intends to issue securities to raise money for a Community Venture;

"**Offering**" means an offering of securities by an Issuer to raise money for a Community Venture; and

"**Promoter**" means a person or company that takes the initiative in founding, organizing or substantially reorganizing an Issuer.

#### PART 2 PURPOSE OF THIS POLICY STATEMENT

This policy statement sets out the conditions that must be met before the Commission will issue a ruling exempting an Issuer selling securities to raise money for a Community Venture from the registration and prospectus requirements of the Act. This policy statement replaces former Local Policy 5.1 dated May 27, 1987 as amended. There are no substantive changes from the former Local Policy. This policy statement merely clarifies the provisions of the former Local Policy and simplifies procedures. For example, it includes a fill-in-the-blanks application form, offering memorandum and report of trade which are available on computer diskette.

#### PART 3 BACKGROUND

Persons or companies in a community in Saskatchewan may want to raise money from residents of the community to fund the creation or development of a Community Venture in the community that can provide jobs in or economic development of the community.

When money is raised by selling shares or other securities, the provisions of the Act apply. These provisions are intended to protect investors. The basic rules under the Act are that persons or

companies selling securities must be registered and investors must be given a prospectus with full, true and plain disclosure about the Issuer.

Under section 83 of the Act, the Commission has the discretion to grant rulings exempting an Issuer from the normal registration and prospectus requirements. These requirements may not be necessary where residents are asked to invest in a Community Venture. Residents are likely to be familiar with most aspects of the Community Venture, because it is located in the community and because the Promoters of the Issuer and sellers of the Offering are from their community.

Therefore the Commission will grant rulings under section 83 of the Act allowing Issuers to sell securities to raise money for Community Ventures without registration or a prospectus. This is provided the Issuer meets the conditions set out below.

This policy statement does not preclude an Issuer from using statutory exemptions from the registration and prospectus requirements in the Act instead of applying for a discretionary exemption under this policy statement if these statutory exemptions are available to the Issuer. These statutory exemptions can be found in sections 38, 39, 81 and 82 of the Act.

#### **PART 4      CONDITIONS THAT APPLY TO THE OFFERING**

The Commission will generally impose the following conditions in its rulings under this policy statement. The Commission may waive these conditions where investor protection can be maintained or impose additional conditions where necessary for investor protection. The Commission will vary these conditions to suit the circumstances of each case if the reasoning behind the policy statement is maintained.

- 4.1      The Community Venture must be located in a town, village, hamlet or rural municipality having a population of less than 5,000;
- 4.2      The Promoters must either be:
  - a.      the town, village, hamlet or rural municipality where the Community Venture is located;  
or
  - b.      individuals who:
    - i.      reside in the town, village, hamlet or rural municipality in which the Community Venture is or will be located, or within a 20 kilometre radius of the Community Venture, both at the time of the Offering and for the two year period immediately preceding the Offering;

- ii. do not reside in a city; and
  - iii. will manage the Community Venture on an ongoing basis after the Offering;
- 4.3 The minimum subscription amount necessary to close the Offering together with other financing arranged by the Promoters, all of which must be unconditionally available to the Issuer, must be enough to ensure that the Community Venture can be established and operate until it generates sufficient funds from operations to cover its expenses unless the project proposed is a phase in the creation or development of the Community Venture that can stand on its own, in which case the minimum subscription amount necessary to close the Offering must be enough to ensure the project can be completed;
- 4.4 Money raised under an Offering must be held in trust by a trustee acceptable to the Director until the Offering is closed;
- 4.5 If investors may pay for securities in goods or services instead of cash, there must be a written agreement specifying what goods or services the investor will provide and how those goods or services will be valued when calculating the minimum subscription amount necessary to close the Offering;
- 4.6 If investors may pay for securities in instalments, sufficient cash must be available at closing to ensure that the Community Venture or the phase of the Community Venture proposed is viable;
- 4.7 The money raised under an Offering must not be more than \$1,000,000, and must be used to cover the costs of the Offering with the balance invested in the Community Venture;
- 4.8 Each purchaser must reside in Saskatchewan and:
  - a. be an individual who:
    - i. resides in the town, village, hamlet or rural municipality in which the Community Venture is or will be located, or within a 20 kilometre radius of the Community Venture, both at the time of the Offering and for the two year period immediately preceding the Offering; and
    - ii. does not reside in a city; or
  - b. be an individual who:
    - i. is a parent, child, brother, brother-in-law, sister, sister-in-law, close friend or close business associate of an individual in paragraph a. above;

- ii. has resided in the town, village, hamlet or rural municipality in which the Community Venture is or will be located, or within a 20 kilometre radius of the Community Venture, for a period of not less than 10 consecutive years before the Offering; and
    - iii. at the time of the Offering continues to have close ties to the town, village, hamlet or rural municipality in which the Community Venture is or will be located; or
  - c. be a person or company that is controlled by an individual or individuals who fall within the provisions of paragraphs 4.8.a or b;
- 4.9 Purchasers must purchase as principal;
- 4.10 Sales may be made only by registrants under the Act authorized to trade in the Securities, or by individuals listed in the ruling, who generally will be individuals who fall within the provisions in paragraph 4.8.a and have a substantial connection to the Community Venture;
- 4.11 The Issuer must give to each investor:
- a. a copy of the ruling;
  - b. an offering memorandum accepted by the Director; and
  - c. any other material specified in the ruling;
- 4.12 All promotional material that is used in connection with an Offering must be approved by the Director before it is used;
- 4.13 No sales commission may be paid to salespersons;
- 4.14 Further trades of securities purchased under an Offering will be restricted and subject to the provisions of subsections 81(6) and (7) of the Act as if the securities were acquired under clause 81(1)(s) of the Act (the "seed capital" exemption) unless such trades are:
- a. to the Issuer;
  - b. to a self-directed registered retirement savings plan of the investor or the investor's spouse;

- c. from a self-directed registered retirement savings plan of the investor or the investor's spouse to the investor or his/her spouse or to the Issuer;
  - d. to other investors who own securities of the Issuer; or
  - e. to any person or company provided that two years have passed since the date that the Offering closed, and the Issuer is required to file annual and semi-annual financial statements and is not in default of the requirement;
- 4.15 On closing of an Offering the Issuer must comply with Part XIV of the Act - "Continuous Disclosure" including the requirements to prepare, file and send on a continuous basis annual and interim financial statements and material change reports as if it were subject to those provisions except that:
- a. it is not required to file with the Commission or send to its security holders financial statements for the first and third quarters of each of its financial years; and
  - b. if the amount raised is less than \$500,000, its annual financial statements need not be accompanied by a report of an auditor if:
    - i. a general review has been carried out by an independent accountant as set out in section 8100 of the Canadian Institute of Chartered Accountants' ("CICA") Handbook; and
    - ii. such financial statements are accompanied by a review engagement report as set out in section 8200 of the CICA Handbook;
- 4.16 The Offering will usually be open for no longer than six months. The Issuer may apply for an amendment to the ruling to permit an extension of the offering period set out in the ruling. Saskatchewan Policy Statement 12-601 Applications to the Saskatchewan Securities Commission sets out the procedure to apply for such an amendment; and
- 4.17 The Issuer must file, within 30 days of the closing of the Offering, a report in the form prescribed by the Director showing the names, addresses and telephone numbers of investors and the number and purchase price of securities each has purchased and certifying compliance with the ruling.

## **PART 5      PROCEDURE TO OBTAIN A RULING**

The following are the steps involved in obtaining a ruling from the Commission:

- 5.1 You must file an application in the form prescribed by the Director together with:
- a. two copies of an offering memorandum in the form prescribed by the Director;
  - b. other documents as set out in the application form; and
  - c. a cheque for \$400 payable to the Minister of Finance;
- 5.2 The staff of the Commission will review your application, offering memorandum and other documents and give you comments. The staff will attempt to give you comments within 10 working days from the date you file your material;
- 5.3 When staff are satisfied with the form of your offering memorandum and you have resolved all their comments:
- a. The Director will give you notice that your offering memorandum is acceptable for use with the Offering; and
  - b. Staff will prepare a draft ruling and send it to you for comment;
- 5.4 When you have commented on the draft ruling and it is finalized, staff will submit the ruling to the Commission and ask the Commission to issue it;
- 5.5 Before a ruling is granted and your offering memorandum approved, you must not sell the securities or do anything directly or indirectly in furtherance of selling the securities such as distributing promotional materials or having promotional meetings.
- However, Promoters may take certain steps to gauge potential investor interest in an Offering as set out in General Ruling/Order 47-901 Testing the Waters.
- 5.6 After the ruling has been granted and the offering memorandum accepted, all promotional material and meetings must comply with Commission Regulation 47-501 Advertising and Sales Literature.

**PART 6                      RESCISSION OF FORMER LOCAL POLICY 5.1**

This policy statement replaces former Local Policy 5.1 dated May 27, 1987 as amended which is hereby rescinded.

Adopted by the Commission  
effective April 2, 1993  
Amended by the Commission  
effective April 6, 1993  
Amended by the Commission  
effective May 13, 1993  
Amended by the Commission  
effective October 12, 1993  
Amended by the Commission  
effective July 9, 1996  
Amended by the Commission  
effective July 17, 1997

  "Marcel de la Gorgendière"  
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Chairperson