

Raising Capital for Small & Mid-Size Businesses

The Nova Scotia
Securities Commission



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Note

This guide reflects a summary of Nova Scotia securities laws in effect when it was printed.

Nova Scotia securities laws are detailed and complex and are frequently amended.

Please consult with your lawyer before proceeding to rely on any exemption.

Raising Capital

When businesses raise money in Nova Scotia, through the issuance of securities, they are subject to securities laws that govern this process.

Private placement markets or “exempt” markets are exactly that, a way for businesses to be exempt from these laws and still raise the funds they need to grow.

Without an exemption a company that wants to raise money for its operations by issuing securities to the public must produce a detailed information document known as a prospectus, and provide investors with ongoing disclosure of all material information about the company.

A private placement offering is exempt from these prospectus requirements.

These securities may be offered to investors by a public or private company, a limited partnership, or some other form of legal entity.

The key thing to remember is that securities issued under prospectus exemptions do not trade on a public stock exchange so an investor may not be able to resell them.

The exempt market may not be for everyone, but if you are a start-up business looking to raise capital, it just might be for you. The following are samples of exemptions available in Nova Scotia.

Accredited Investor

A company can sell securities to “Accredited Investors” without a prospectus.

An Accredited Investor includes someone who has:

- Alone or with a spouse, at least \$1 million in financial assets (cash and marketable securities) before taxes, net of any debts. Neither their home nor any other real estate they own is considered a financial asset, *or*
- Net income before taxes of more than \$200,000 per year for the past two years, *or* (\$300,000 per year when combined with a spouse’s net income), *or*
- Alone or with a spouse, net assets of at least \$5 million.
- Issuers are required to substantiate the legitimacy of accredited investors and keep records for 8 years.

Private Issuer

A company is considered a private issuer if its securities are owned by fewer than 50 qualified security holders, other than employees.

Qualified security holders include a close personal friend or close business associate of a person with a direct relationship to the company, such as a director of the company.

Offering Memorandum

A company can sell its securities to anyone using the Offering Memorandum (OM) exemption. An OM is a prescribed document that contains a description of the company's business, discloses annual financial statements, lists the relevant risks, and describes how the money raised will be used. Issuers will also have to provide continuous disclosure to investors.

- Investors can invest up to \$10,000 per year,
- Eligible investors can invest up to \$30,000 per year.
- Eligible investors with advice from an investment dealer can invest up to \$100,000 per year.
- The OM must be filed with the provincial securities regulator where the securities are being sold.

Family, Friends and Business Associates

A company can sell securities to individuals that share a close relationship with a director, executive officer or control person of the company.

These individuals include:

- Family, being a spouse, parent, grandparent, brother, sister, child or grandchild.
- Close personal friends.
- Close business associates.

Crowdfunding

There are two exemptions for securities crowdfunding in Nova Scotia.

Startup crowdfunding issuers sell securities through on-line portals. Individual investors can invest up to \$1,500 per investment and issuers can raise up to \$500,000.

Crowdfunding issuers also sell securities through on-line portals. Individuals can invest \$2,500 per investment and issuers can raise up to \$1.5 million.

The two exemptions have many differences in their other requirements.

Community Economic Development Investment Funds (CEDIFs)

A Community Economic and Development Investment Fund (CEDIF) is a pool of capital which is raised from individuals within Nova Scotia to invest in for-profit entities within a defined community.

- Issuers must receive a non-objection letter from the Commission prior to raising funds.
- Only NS residents 19 years or older may invest.
- \$3 million can be raised per offering.
- The offering document and continuous disclosure are public documents and must be provided to investors.

Informed Investing

Companies interested in raising money in the exempt market should review National Instrument 45-106 *Prospectus and Registration Exemptions*, the Community Economic Development Regulations and consult with a lawyer familiar with securities laws.

To help facilitate the capital raising process in the exempt market place, firms may want to seek assistance from exempt market dealers.

Under some exemptions the sales of securities must still be reported to the applicable securities regulators.

If you are considering entering the exempt market, please feel free to contact the Nova Scotia Securities Commission, the provincial regulator of Nova Scotia capital markets.

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