



# Securities Commission of The Bahamas

Consultation Paper:

## **DRAFT SECURITIES INDUSTRY (BUSINESS CAPITAL) RULES, 2017**

### **Summary**

The Securities Industry (Business Capital) Rules, 2017 (the “Rules”) have been developed to introduce specific regulations for entrepreneurs to use crowdfunding to raise capital and to ease access to capital market funding by small and medium enterprises (SME). The main objective of the Rules is to lighten the regulatory burden and open access to funding for SMEs via the public markets while maintaining appropriate mechanisms to protect investors.

The proposed Rules would allow the general public to participate in crowdfund distributions within limitations and would require that all equity crowdfund distributions are conducted on a platform that is registered with the Commission. To help protect small and/or sophisticated investors, the Rules would limit the amount such persons could invest in such distributions in any given year.

The Rules would also allow certain small and medium business to raise up to \$3,000,000 per year in the ‘Over-the-Counter’ market without having to file a prospectus with the Commission, though an Offering Memorandum would be required to be filed, which will allow investors to make informed investment decisions. Entrepreneurs, via the use of a crowdfund distribution, would be allowed to raise up to \$1,000,000 per year without having to file a prospectus with the Commission but must file a crowdfund offering document with the Commission that will allow prospective investors to make an informed decision regarding the offering.

### **Scope**

These Rules will apply to any person, inclusive of all regulated entities under the Securities Industry Act, 2011, the Investment Funds Act, 2003, the Financial and Corporate Services Providers Act, 2000 that intends to conduct a crowdfund or over-the-counter distribution and any person that is registered as a platform with the Commission.

### **Issued: 20 March 2017**

The consultation period commences on Tuesday 21 March 2017 and ends on Tuesday 18 April 2017, during which time the Commission invites the public to share comments with respect to the draft Rules. Comments may be submitted via email to [SIAconsultation@scb.gov.bs](mailto:SIAconsultation@scb.gov.bs). Alternatively, comments may be submitted to:

### **The Executive Director**

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**SECURITIES INDUSTRY (BUSINESS FUNDING) RULES, 2017**

**(SECTION 149)**

**(Commencement , 2017)**

**PART I  
Preliminary**

**Citation**

1. (1) These Rules may be cited as the Securities Industry (Business Capital) Rules, 2017.
- (2) These Rules shall enter into force upon publication.

**Interpretation**

2. (1) In these Rules –
  - “Act” means the Securities Industry Act, 2011;
  - “business capital” means money used for investment in a project or company;
  - “business funding” refers to the use of an exemption under section 92 of the Securities Industry Act to source or obtain business capital;
  - “Commission” refers to the Securities Commission of The Bahamas;
  - “crowdfunding” means the financing of a project or venture by raising money from members of the public utilising an internet platform, and includes “equity-based crowdfunding”;
  - “crowdfund offering” or a “crowd fund distribution” refers to the distributions offered on a platform to members of the public for investment in unlisted securities;
  - “distribution” is as defined in section 4 of the Act, and “offering” shall have the same meaning;
  - “distribution period” refers to the period between the date when the distribution started and when it ends as stipulated in the offering document;
  - “issuer” has the meaning prescribed in section 4 of the Act;
  - “platform” refers to the internet-based person registered with the Commission to advertise and administer crowd fund offerings;
  - “project initiator” refers to the issuer whose project is listed on a platform;
  - “purchase” is as defined in section 4 of the Act;
  - “Regulations” means the Security Industry Regulations, 2012;
  - “self-regulatory organization” is as defined in section 4 of the Act; and

“SME” refers to small and medium-sized enterprises as categorized in the First Schedule.

### **Applicability**

3. (1) These Rules apply, as at the date of these Rules and thereafter, to –
- (a) all persons seeking business capital with respect to a new or existing company which company is neither exempt for exchange control purposes nor a company listed on a registered exchange.
  - (b) all persons operating or participating or intending to operate or participate in equity-based crowdfunding either by distributing securities as or by investing in a new or established company;
  - (c) all persons registered or intending to be registered as an equity crowd funding platform.
- (2) These Rules shall not apply to –
- (a) donation-based crowdfunding whereby members of the public give money in support of a charitable or non-profit project, cause or organization where such activity is not a distribution of securities;
  - (b) debt-based crowdfunding or peer-to-peer lending whereby a person borrows money from willing lenders and repays the sum borrowed at an agreed interest rate;
  - (c) rewards-based crowdfunding or pre-payment crowdfunding whereby members of the public give money in return for a reward, service or product and in which there is no distribution of securities; or
  - (d) a distribution which is issued on a registered stock exchange.

## **PART II Regulation of Business Funding**

### **Securities issue**

4. Subject to paragraph 3, any eligible person shall be entitled to issue securities to source business capital pursuant to the provisions of these Rules.

### **Must be a company**

5. No person shall issue securities to source business capital under the provisions of these Rules unless a company organized under the laws of The Bahamas and operating within The Bahamas.

### **No requirement to file prospectus**

6. (1) No company which is eligible to source business capital or funding under the provisions of these Rules by issuing securities shall be required to file a prospectus pursuant to Section 83 of the Act and any distribution by such company shall be exempt pursuant to section 92 of the Act.

(2) Notwithstanding paragraph (1), an eligible company must, consistent with the distribution selected, either prepare the offering document stipulated under Part III or prepare the offering memorandum stipulated under Part IV of these Rules and shall also prepare for submission to the Commission, Form 16 Notice of Exempt Transaction set out in the Second Schedule of the Regulations.

(3) Irrespective of the method of distribution selected, an eligible company filing a Notice of Exempt Transaction shall be required to pay the requisite fee for such filing as prescribed under Table D of the First Schedule of the Securities Industry Fee Rules, 2012 .

**Business funding selection**

7. An eligible company shall be entitled to select its method of business funding; however, except where specifically permitted by these Rules, no company shall –

- (a) launch more than one distribution, regardless of method, within any 12-month period; or
- (b) combine or select more than one type of business funding to occur during the same distribution period or at the same time.

**Bahamian currency only**

8. Any transaction for the purchase of securities issued by an eligible company shall be made in Bahamian currency only.

**Distribution period**

9. (1) Any security issued under the provisions of these Rules shall only be distributed during the distribution period stipulated in the relevant offering document or offering memorandum.

(2) The Commission shall order the cancellation of any distribution where any person not being a purchaser fails to comply with subparagraph (1), and shall take enforcement action against such person pursuant to section 133 of the Act.

**Investor forms**

10. Regardless of the method of distribution selected by a company, no platform or registered firm shall sell to or trade in any securities issued under a distribution initiated under these rules with a prospective purchaser, unless the forms set out in the Appendices to Form 1 of the Second Schedule to these rules are completed by such purchaser, specifically, –

- (a) the Risk Awareness Form acknowledging that he is aware that the offering potentially represents a risk of loss and other risks; and
- (b) in the case of a non-accredited investor, the Investor Limit Form providing information on the amount of money which has been invested in an SME securities exempt distribution; or
- (c) in the case of an accredited investor, the Individual Accredited Investors Form certifying that the investor is an accredited investor.

**Payment of distribution funds**

11. (1) In accordance with the payment terms stipulated in the offering document or offering Memorandum, and subject to the expiration of the purchaser's withdrawal period, all funds, collected from the purchase of securities during the distribution period as well as any accrued interest on such funds, shall be paid over to the project initiator or the issuer within three (3) days of the end of any distribution period.

(2) In no event shall any funds be paid over to a project initiator or issuer before the end of the distribution period and any person breaching this provision shall be subject to enforcement action by the Commission.

#### **Right of withdrawal**

**12.** (1) A purchaser of securities distributed under the provisions of these rules shall be entitled to withdraw his purchase in a distribution for any reason or no reason at all by written notice to the platform or the registered firm.

(2) A purchaser's notice of withdrawal shall be made no later than seventy-two (72) hours after the date of the agreement to purchase the security.

(3) Where a purchaser has exercised the right of withdrawal, all funds paid by the purchaser as well as any accrued interest on such funds shall be paid by the platform or the registered firm within two (2) days of the purchaser's request.

#### **Prohibited activity**

**13.** No platform or registered firm shall with respect to a distribution initiated under these rules –

- (a) purchase for itself or own the securities it is promoting for sale or trade;
- (b) offer to or agree with a project initiator or issuer to –
  - (i) underwrite the sale of any securities offered;
  - (ii) lend money to a project initiator or issuer; or
  - (iii) set off the cost of any application, administrative or other fee a project initiator or issuer is required to pay.

### **PART III Regulation of Crowdfunding**

#### **Eligible participants**

**14.** (1) Any new or existing company may, as a project initiator, issue securities by a crowdfunding distribution for the purpose of securing business capital.

(2) Notwithstanding sub-paragraph (1), no person shall participate in a crowdfunding distribution, or place or advertise a crowdfund offering on a platform except in compliance with the provisions of these Rules.

#### **Crowdfunding distributions**

**15.** (1) In raising business capital, a project initiator shall not be restricted in the number of distributions it launches in any 12-month period and is entitled to stipulate the payment terms with respect to the funds collected during the distribution period.

- (2) Notwithstanding sub-paragraph (1), a project initiator shall not within any 12-month period –
- (a) place a single distribution on more than one registered platform at the same time;

- (b) directly or indirectly stipulate in the offering document that the number of prospective purchasers is restricted, or that the offering is targeting or is restricted to any particular group of prospective purchasers; or
  - (c) raise more than one million dollars with respect to a single distribution.
- (3) Any member of the public may invest in a crowdfund offering; however, a non-accredited investor shall not in any 12-month period invest more than \$1000 in a single distribution, or have investments exceeding \$3,000 total with respect to more than one distribution.
- (4) Where securities have been purchased under a crowdfund offering, a purchaser shall not sell or transfer any security, except where the security is –
- (a) sold or transferred to the project initiator;
  - (b) transferred to an accredited investor; or
  - (c) transferred to a family member by reason of inheritance or settlement upon a divorce.

**Crowdfunding offering document**

16. (1) A project initiator intending to raise business capital by way of a crowdfund distribution shall submit to the platform the completed offering document and Form 16 Notice of Exempt Transaction, as well as any other documents required by either the Commission or the platform, and the platform shall thereafter submit all documents and the fee to the Commission.

(2) Notwithstanding the period prescribed in regulation 116 of the Regulations, the platform shall submit the offering document to the Commission no later than five (5) days prior to first sale of securities.

(3) The exemption from the requirement to file a prospectus at sub-paragraph (2) shall not apply where –

- (a) a project initiator is not organized under the laws of The Bahamas;
- (b) a project initiator previously utilized the crowdfund exemption to issue securities without complying with the Commission’s requirements;
- (c) the crowdfund offering –
  - (i) exceeds the maximum amount allowed for the exemption;
  - (ii) restricts the number of purchasers that may participate in the distribution; or
  - (iii) is relying on another exemption to file a prospectus;
- (d) the close of the distribution period exceeds sixty (60) days;
- (e) the project initiator does not utilize a registered platform; or
- (f) the proceeds of the crowdfund offering are being used to invest in, acquire or merge with another business.

### Regulation of platforms

17. (1) A platform shall be registered with the Commission as an electronic marketplace pursuant to 58(1) of the Securities Industries Act.

(2) In addition to meeting the requirements of regulation 23 of the Regulations, an approved platform must institute adequate internal controls and put measures into place to protect the privacy of the information collected from purchasers.

(3) Regulation 88 of the Regulations shall apply *mutatis mutandis* to a platform with respect to the segregation of client assets.

(4) A platform shall designate a compliance officer consistent with the obligation under regulation 40(2) of the Regulations.

(5) Regulations 26 to 36 of the Regulations apply *mutatis mutandis* to platforms, and all platforms shall also, by written report submitted bi-annually to the Commission by January 30 and July 31 of each year, provide details of –

- (a) all securities distributed through its funding platform;
- (b) all approved crowd fund offerings, including the –
  - (i) name of the project initiator;
  - (ii) type of security issued;
  - (iii) project initiator's industry;
  - (iv) target amount of the offering;
  - (v) amount received; and
  - (vi) names and numbers of purchasers participating in the offering.
- (c) all unapproved distributions or failed distributions, including the –
  - (i) name and industry of each project initiator and the corresponding name of each director, shareholder and senior officer of the crowd fund offering that was denied access to the platform;
  - (ii) name and industry of each project initiator and the corresponding name of each director, shareholder and senior officer that was granted access to the portal, but the offering failed to close or was removed from the platform; and
  - (iii) reason for the failure or removal or for the denial.

### Management of distributions

18. (1) A platform shall not place or advertise any distribution on its website except by written agreement made with the project initiator.

(2) Within five (5) days of the close of the distribution period, a platform shall submit to the Commission the requisite Platform Due Diligence Attestation Form set out in the Third Schedule to these Rules.

### **Crowdfunding application assessments**

19. A platform shall only place or advertise a crowdfunding distribution on its website where it has first assessed the application for distribution and is satisfied that –

- (a) the information in the offering document, and any other documents submitted by the project initiator, is clear and accurate;
- (b) background and criminal checks have been performed with respect to each director, senior officer, executive and promoter of the project initiator;
- (c) the offering document stipulates the payment terms to be followed at the end of the distribution period, and does not restrict the category of purchaser who may participate in the distribution;
- (d) the project initiator is –
  - (i) organized under the Companies Act;
  - (ii) not disqualified to advertise a distribution having previously utilized the exemption under the Act and the Regulations but has not complied with the continuing obligations of a project initiator; and
  - (iii) not advertising a distribution which is the subject of another distribution made during the same 12-month period;
- (e) the distribution does not –
  - (i) seek to raise more than the maximum sum permitted under paragraph 15(2)(c) of these Rules; or
  - (ii) come within any other category for exemption existing under section 92 of the Act or under regulations 109, 111, 114 or 115 of the Regulations

### **Platform operations**

20. (1) With respect to its operations, a platform shall have a duty to –

- (a) place a notice on its website–
  - (i) notifying all persons that it does not guarantee that a distribution will provide the purchaser with a return on investment or that the project initiator will use the funds raised in a distribution in a specific manner;
  - (ii) identifying the Commission as the place where complaints concerning distributions are to be addressed and listing the Commission’s address and contact information; and
  - (iii) informing prospective purchasers of the investment limits and the legal requirement for investors to complete the Risk Awareness Form and the Investor Form prior to any sale of securities;
- (b) assess the investment status of prospective purchasers;

- (c) immediately report a project initiator to the Commission, where it becomes aware of any failure of that project initiator to comply with securities laws or to conduct its affairs with integrity; and
- (d) disclose on its website, the compensation received from a project initiator with respect to a crowd fund distribution.

(2) With respect to subparagraph (1)(d), a platform shall pay to the Commission, by December 31<sup>st</sup> of each year, a sum **representing 2%** of total revenue generated by its activities.

#### **Restrictions on project initiators**

**21.** (1) No project initiator shall directly or indirectly with respect to the crowdfund offering –

- (a) lend to or arrange financing with a prospective purchaser or agree to act as a lender for another project initiator;
- (b) solicit loans from prospective purchasers or offer to sell securities to any person outside of the platform;
- (c) advertise, regardless of the medium used, the terms of any crowdfund distribution;
- (d) offer any incentives, whether monetary or otherwise, to any person connected with the crowd fund offering; or
- (e) hire, contract, compensate or offer to compensate any third party at any time to promote or market the crowd fund offering or solicit prospective purchasers.

(2) Notwithstanding subparagraph (1)(c) a project initiator shall be entitled to announce the fact that a crowdfund offering exists, but such announcement shall do no more than advise members of the public that a crowdfund offering has been registered on a platform and direct such members of the public to that platform for details of the offering.

(3) For the purpose of sub-paragraph (1)(d), a person shall be deemed to be connected with a crowd fund offering if such person is a promoter, underwriter, or involved in the platform's marketing or public relations efforts related to the crowdfund offering.

#### **Restrictions on platforms**

**22.** (1) Notwithstanding that a platform may be a registered marketplace, it shall not –

- (a) engage in or offer investment advice or make recommendations concerning a project initiator to prospective purchasers;
- (b) curate or solicit prospective purchasers with regard to any specific type of offering; or
- (c) advertise any crowd fund offerings related to a company or group of companies which is controlled by the same beneficial owners which control the platform.

(2) For the purpose of sub-paragraph (1)(b), a platform curates an offering where it creates a collection of distributions based on the type of business funding selected or based on the type of project being promoted and directs prospective purchasers to these collections based on the investment goals of those purchasers.

### **Crowdfunding distribution period**

**23.** The securities offered by a project initiator shall only be available for purchase for a period of sixty (60) days after the date the project initiator first offers the securities for purchase.

### **Return of purchaser's funds**

**24.** (1) In addition to the obligation under paragraph 12 of these rules to return a purchaser's funds, a platform shall also return all funds to a purchaser in the event that a distribution is terminated by the platform, or where the distribution is cancelled by the project initiator or the Commission; and, such return shall be done without any specific request of the purchaser within two (2) days of the occurrence of either event.

(2) Except for circumstances where a purchaser alleges fraud on the part of either the platform or the project initiator, a purchaser shall be prohibited from initiating action before any court in the Bahamas or filing a complaint with the Commission where such purchaser fails to exercise the right of withdrawal during the withdrawal notice period.

### **Closing fees**

**25.** (1) Following the close of a distribution and before any funds are paid over to a project initiator, a platform shall deduct and retain a sum representing .05% of the total funds collected during the distribution period, which sums shall be submitted to the Commission by the platform within ten (10) days of the close of the distribution period.

(2) Where a distribution failed to close having been cancelled by the platform, the project initiator or the Commission, the project initiator shall pay to the platform a flat fee of **\$500**, which fee shall be submitted to the Commission by the platform at the same time it submits the bi-annual report required under subparagraph 13(5).

### **Financial statements**

**26.** (1) Within one year of the close of the distribution period, a project initiator having raised business capital of \$150,000 or more as a result of a crowdfund distribution, shall submit to the Commission its reviewed financial statements signed by a licensed accountant.

(2) Sub-paragraph (1) shall not apply to a project initiator which has raised less than \$150,000 in business capital; however, within six months of the close of the distribution, such project initiator shall submit its compiled financial statements to the Commission.

(3) Upon review of the financial statements submitted by a project initiator and being satisfied that the project initiator has complied with the provisions of these Rules and any other relevant laws concerning the distribution of securities, the Commission shall issue a compliance certificate to the project initiator.

**PART IV**  
**Regulation of SME business funding**

**SME business funding**

**27.** (1) An SME as defined in these rules shall be entitled to issue securities as an exempt distribution pursuant to section 92 of the Act.

(2) Notwithstanding sub-paragraph (1), no SME shall issue securities as an exempt distribution where –

- (a) as issuer, such person or its affiliates, has –
  - (i) previously utilized an exempt distribution but failed to comply with the Commission's requirements;
  - (ii) failed to comply with the Commission's reporting obligations under the Act, the Investment Funds Act, 2003, or the Financial and Corporate Services Providers Act, 2000;
  - (iii) previously initiated a crowdfunding distribution or another exempt distribution and the distribution period has not expired with respect to those distributions; or
  - (iv) issued securities under another type of exempt distribution which distribution falls under another provision of section 92 of the Act;
- (b) the offering either exceeds the maximum amount allowed for an SME distribution or restricts the number of investors that may participate in an SME distribution;
- (c) the issuer does not use a registered firm for the distribution; or
- (d) the proceeds of the offering are intended to be used to invest in, acquire or merge with another company.

(3) An SME must, with respect to every exempt distribution which it initiates, ensure that the offering satisfies the conditions for an exemption and that it complies with the provisions of its offering memorandum.

**Over-the-counter distributions**

**28.** (1) In raising business capital by way of an over-the-counter distribution, an SME must utilize a registered firm as defined by section 4 of the Act.

(2) No SME shall, with respect to an over-the-counter distribution, –

- (a) initiate more than one exempt distribution in any 12-month period;
- (b) if a small-sized enterprise, initiate an exempt distribution seeking more than two million dollars as business capital; or
- (c) if a medium-sized enterprise, initiate an exempt distribution seeking more than three million dollars as business capital.

(3) Any member of the public may invest in an exempt distribution initiated by an SME; however, a non-accredited investor may not in any 12-month period invest more than one thousand dollars in any one such distribution, or more than five thousand dollars total in more than one distribution.

(4) Securities issued by an SME under an exempt distribution may be traded over-the-counter by a registered firm or a purchaser, and a purchaser shall be entitled to sell or transfer any such securities over-the-counter without restriction.

#### **Restrictions on issuers**

**29.** No SME as issuer shall with respect to the securities issued under its exempt distribution –

- (a) finance, lend to, or arrange financing or lending on behalf of a prospective purchaser; or
- (b) directly or indirectly restrict either the number or category of persons who may invest in the exempt distribution.

#### **Statutory requirements for registered firms**

**30.** (1) No registered firm may trade in securities issued by an SME under an exempt distribution except such firm has been licenced to deal in, arrange deals in, manage, and advise on securities.

(2) In trading in securities issued by an SME under an exempt distribution, a registered firm must comply with all statutory requirements concerning its ongoing obligations under the Act and shall be required to provide the Commission with a monthly report disclosing the –

- (a) name of the issuer;
- (b) name and address of the parties involved in the trade;
- (c) dollar amount of each trade;
- (d) date of each trade;
- (e) share price at the time of the trade; and
- (f) any other information as the Commission may reasonably require.

#### **Rights of purchasers**

**31.** Every purchaser of securities issued by an SME under an exempt distribution shall have a right of action against an issuer before the Supreme Court for rescission and damages for any misrepresentation in the offering memorandum or other documents provided by the issuer.

#### **Offering memorandum**

**32.** (1) An SME intending to offer securities under an exempt distribution shall prepare an offering memorandum which memorandum shall, in bold font, –

- (a) set out a disclaimer on each page, stating that –
  - (i) the offering has not been reviewed or approved by the Commission;
  - (ii) the offering is risky and may result in loss of some or all of a purchaser's investment;

and

- (iii) that an active secondary market may not develop for the securities issued in the distribution.
- (b) advise prospective purchasers that the issuer has no obligation to provide ongoing information about the issuer and any such information may be limited;
- (c) include a provision on the prospective purchaser's right of withdrawal and right of action against the issuer;
- (d) provide details of the distribution and stipulate the distribution period; and
- (e) include any information as the Commission may reasonably require.

(2) No later than five days prior to the first sale of securities, an SME shall submit the offering memorandum to the Commission along with the requisite fee as stipulated in subparagraph 6(3), and shall, at the same time, submit the following documents to the Commission –

- (a) Form 16 Notice of Exempt Transaction as set out in the Second Schedule to the Regulations;
- (b) in respect of each purchaser –
  - (i) the Risk Awareness Form completed by each purchaser; and
  - (ii) the Investor Limits Form
- (3) The SME must provide a copy of the offering memorandum to –
  - (a) the registered firm no later than five (5) days before the start of the distribution period; and
  - (b) each prospective purchaser prior to entering into an agreement for the purchase of the securities issued under the exempt distribution.

#### **SME Distribution period**

**33.** An SME shall be entitled to stipulate the length of the distribution period; however, such distribution period shall not exceed twelve (12) months.

#### **Return of funds**

**34.** In addition to the obligation under paragraph 12 of these rules to return a purchaser's funds, a registered firm's duty to return all funds to a purchaser shall also arise in the event that the distribution is either terminated by the registered firm or cancelled by the issuer; and, such return shall be done without any specific request of the purchaser within two (2) days of the occurrence of either event.

#### **Financial statements**

**35.** (1) Within sixteen (16) months of the close of the distribution period, an SME shall, as issuer, file with the Commission –

- (a) audited financial statements consistent with Section 101 of the Act where the exempt distribution raised funds equal to or greater than one million dollars; and

(b) reviewed financial statements signed by a licensed accountant where the exempt distribution raised funds of less than one million dollars;

(2) Within six months of the close of the distribution period, an SME shall as issuer, regardless of the amount of funds raised, file semi-annual statements with the Commission showing the use of the gross proceeds from the offering.

(3) An SME shall keep all documents and records related to the offering in accordance with section 67 of the Act.

## **PART V General Provisions**

### **Failure to comply**

**36.** (1) Regardless of any other penalty or sanction which may be imposed by the Commission under the provisions of these rules, the Commission shall be entitled to investigate any breaches or failure to comply by any person under the provisions of the Act.

(2) Where an offence under these Rules has been committed and it is proved that the offence occurred with the consent or connivance or any neglect of an officer, director, manager, or person purporting to act in any such capacity of that body corporate, the officer, director, manager or person as the case may as well as the body corporate shall be guilty of the offence.

(3) If the affairs of a body corporate are managed by its members, sub-paragraph (1) shall not apply.

### **Transition**

**37.** Notwithstanding the provisions of any other law, a person shall be deemed to be carrying on business under the provisions of these Rules where such person operated as a platform or was a registered firm within The Bahamas, immediately before the entry into force of these Rules.

**FIRST SCHEDULE**

**(Paragraph 2)**

**Company categorization**

1. A company shall be categorized as a small-sized enterprise or a medium-sized enterprise based on the following factors:

<b>Category</b>	<b>Number of employees</b>	<b>Annual net income (B\$)</b>
Small-sized enterprise	Less than 20	Up to 1.5 million
Medium-sized enterprise	20 to 49	More than 1.5 up to 3 million

**SECOND SCHEDULE**

**(Paragraph 16 )**

**FORM 1**

**Crowdfund Offering Document ("COD")**

**1. Basic Disclosure about the Offering**

*State the following, immediately below the disclosure required under sections 1 and 2, with the bracketed information completed as applicable –*

Crowdfund Offering Document  
Exempt Distribution of Securities  
Current Date

Name of Issuer

Name of Platform

Number and type of securities qualified for distribution under the prospectus  
and the price per security.

**2. Name and Address of Issuer**

*State the full corporate name of the issuer or, if the issuer is an unincorporated entity, the full name under which the entity exists and carries on business. Include the issuer's address and telephone number of the issuer's registered office, head or management office, its e-mail address, its website address, its jurisdiction of incorporation or organization and the statute under which it was incorporated or organized.*

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

**3. Details of the Offering and Use of the Proceeds**

*In this section, in full details, state the nature of the offering and the intended use of the proceeds (i.e.: What is the business going to do with all funds that are raised.) Also, include the estimated gross and net proceeds to be received by the issuer or selling security holder.*

**4. A. Information Summary**

*Include the following summary information about the issuer and securities to be distributed:*

- (a) The history of the issuer;*
- (b) Ownership structure of the issuer;*
- (c) Issued and paid up capital (BSD amounts);*
- (d) Date of incorporation; and*
- (e) Jurisdiction of incorporation.*

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

**B. Information of all Directors and Officers**

*In this section, list the names of all officers along with their ownership level and due diligence information.*

**5. Investor Warning**

*Include a warning statement to the effect that the information which follows is only a summary of the information contained in the COD, and that prospective purchasers are advised to read the entire COD prior to deciding whether to invest in the securities being distributed.*

**6. A. Detailed Description of the Offering**

In this section, give detailed information on the crowdfund offering (inclusive of the beginning and end dates of the offering.

Beginning date:

End Date:

Type of Security being offered:

Interest Rate:

Other information:

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

**B. Terms of the offering**

*In this section, list **all** terms of the offering:*

- (a) Interest Payment Method – Describe how the interest will be paid to investors (annually, semi-annually, etc.)

- (b) Maturity Date(s) – If bonds are to be issued, state the maturity date (when the principal will be repaid to investors).

- (c) Deadline(s) for issuer to collect funds (4 days after 'End Date')

- (d) Date for allotment of Securities:

- (e) Number of shares to be distributed – State how many shares will be distributed in the offering.

- (f) Types of shares to be distributed (e.g.: ordinary, preference, convertible, etc.)

- (g) Percentage of shares to be distributed:

- (h) Class of securities offered:

- (i) Other terms – State any other information that would enable the investor to make a reasonable decision regarding this offering.

**7. Pricing of Securities**

*Provide the full details concerning the pricing of securities, including:*

- (a) prices applied to different classes of purchasers; and  
(b) the basis for determining the offering price, and if estimates are provided, explain the prices used in determining the estimates.

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

**8. Crowdfund Agreement**

State which subgroup the collected funds will fall under, i.e.: "Keep It All" or "All or Nothing". In 'Keep it All' crowdfund models, the issuer sets the fund raising goal but is allowed to retain the entire amount of the funds raised regardless of whether the goal was attained. Conversely, in 'All or Nothing' models, the issuer sets a fund raising goal but retains none of the funds unless the initial goal is achieved. The funds are subsequently returned to the investors.

Keep it All   
All or None

Other:

Minimum subscription amount needed to be raised in order to satisfy the purposes of the distribution:

**9. Principal Purposes**

(a) Include a description of the principal activities and business of the issuer.

- (i) the acquisition of specified property or other specified assets;
- (ii) specified capital expenditures;
- (iii) repayment of debt;

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- (iv) general working capital;
- (v) expenses relating to the distribution;
- (vi) commissions and brokerage fees; and
- (vii) the time frame for full utilisation of the proceeds from the distribution.

**10. Expenses**

*State the expenses incurred by the issuer in connection with the distribution on an aggregate basis, including the aggregate remuneration paid for services of experts and expenses of the platform.*

**11. Yield on Debt Securities**

*If debt securities are being distributed at a premium or a discount, state type the effective yield if held to maturity.*

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

**12. Disclosure of Issuances**

Is the issuer concurrently issuing any other offerings? Yes  No

If yes, state details below:

Has the issuer previously issued any other offerings? Yes  No

If yes, state details below:

**13. Changes in the Terms of the Agreement**

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

**14. List all shareholders (and the applicable percentage of shares) who currently own more than 20% of any class of security of the issuer.**

**15. State and show the relationship between the issuer and any of its affiliates<sup>1</sup>.**

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<sup>1</sup> means, in relation to an issuer, another issuer if - (a) one of them is the subsidiary of the other; or (b) the same person controls each of them.

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

## 16. Future Plans, Strategies and Prospects

*Disclose the following in respect of the issuer:*

- (a) a description of the business development plans, if any, and future plans of the issuer as well as steps taken, including time frame, to realise those plans; and*
- (b) growth strategies of the issuer in the light of the industry prospects, outlook, conditions, and competition.*

## 17. Risk Factors

*Describe the factors material to the issuer that a reasonable investor would consider relevant to an investment in the securities being offered. Include the following:*

- a. Risks associated with the issue's financial position;*
- b. Liquidity Risk (i.e.: no secondary market)*
- c. Risk relating to loss of investment*
- d. Business factors that may adversely affect the issuer's operations;*
- e. Other factors that may adversely affect the issuer's financial results; and*
- f. Other factors that may adversely affect the value or market price of the securities being offered.*

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

**18. Right of Withdrawal**

*All investors of this crowdfund offering have the right to withdraw their interest within 72 hours after the date of the purchase of the security.*

**19. Right of Action**

*Issuers of crowdfund securities must provide a Right of Action against the issuer for rescission and damages, in the event that the Offering Document or any other materials contain a misrepresentation.*

**20. Closing the Distribution**

*The issuer must outline the conditions for closing the distribution (i.e.: if there are minimum or maximum subscription amounts, specific terms of the Crowdfund Platform, if target is not reached, what happens to funds, etc.)*



**21. Financial Information to be included with the COD**

Compiled or Interim Financial Statements of the issuer for the past year, to include:

- a. Statement of financial position;
- b. Statement of comprehensive income;
- c. Statement of change in equity; and
- d. Statement of cash flow.

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

**22. Financial Forecast**

A forecast may be included in a COD only if -

- a. the forecast is identified as such in the COD;
- b. the forecast is for a period of twelve months or less in the future;
- c. a disclaimer immediately follows the forecast stating in substance that the forecast is only a forecast and actual results may differ materially from the forecast; and
- d. the assumptions upon which the forecast is based are disclosed.

**23. Restrictions**

*Describe any restrictions that could prevent the issuer from paying dividends or distributions. Include that the issuer and platform cannot advertise or solicit sales.*

**24. Dividend Policy**

*Disclose the issuer's dividend or distribution policy and any intended change in dividend or distribution policy.*

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

## 25. Legal Proceedings

*Provide details of any material legal proceedings to which the issuer is a party, or of which any property or assets of the issuer is the subject matter, and any such proceedings known to the issuer to be contemplated, including the name of the court or agency; the date instituted; the principal parties to the proceedings; the nature of the claim; the amount claimed, if any; if the proceedings are being contested; and the present status of the proceedings.*

## 26. Constatting Documents

*If the articles and by-laws of the issuer or other constating or organizational documents of the issuer, provide for the remuneration of directors.*

## 27. Limited Ongoing Information for the Purchasers of Shares

*The issuer must comply with ongoing requirements once the offering has been closed:*

(a) **Financial Statements** – *If the crowdfund distribution is **\$150,000 or less**, within six (6) months of the close of the offering, the issuer is required to file with the Commission financial statements that have been compiled by an auditor detailing the financial condition of the issuer as at the current date of the compilation. If, however, the distribution is **greater than \$150,000**, then within one year after the close of the offering, the issuer is required to file reviewed financial statements with the Commission detailing the financial condition of the issuer as at the current date of the review.*

(b) **Progress Reports** - *The issuer will be required to file a report with the Commission and the crowdfund platform each year detailing updated information regarding the issuer, such as:*

- i. Use of proceeds since the offering;*
- ii. Any regulatory action against the company;*
- iii. Current status of the business and progress toward intended goals;*
- iv. Any additional funding acquired during the year; and*
- v. Any other information the Commission may require.*

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

**28. Category of Investors**

The issuer attests that there are no restrictions on the number of investors that can subscribe to this distribution.

I Agree

**29. Declarations**

The issuer attests that the COD is fairly represented and the document does not contain any material misrepresentation. If you agree, check the box "I Agree". If you disagree, check the box "I Disagree".

I Agree

I Disagree

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

## Appendix A to Form 1

### Risk Awareness Form

This Form is to be completed by all investors of the Crowdfund Offering and indicates that the purchaser is aware that the offering potentially represents a risk of loss of investment and liquidity risk (i.e.: **there is no secondary market for the security**).

#### A. Risk Awareness

*If you understand each risk, mark the 'yes' box with an 'X'. If you do not understand each risk, mark the 'no' box with an 'X'.*

Do you understand that:	YES	NO
(i) Liquidity risk is high because there is no secondary market for this Crowdfund securities?	<input type="checkbox"/>	<input type="checkbox"/>
(ii) It is possible to lose your entire investment?	<input type="checkbox"/>	<input type="checkbox"/>
(iii) There may not be dividend or interest pay-outs from your investment?	<input type="checkbox"/>	<input type="checkbox"/>
(iv) Issuers are only required to provide limited ongoing information to purchasers of securities?	<input type="checkbox"/>	<input type="checkbox"/>

#### B. Understanding of Investment

*If you understand each question, mark the 'yes' box with an 'X'. If you do not understand each question, mark the 'no' box with an 'X'.*

Did you:	YES	NO
(i) Read this entire Form and understand all risks involved with this investment?	<input type="checkbox"/>	<input type="checkbox"/>
(ii) Read the Offering Document entirely?	<input type="checkbox"/>	<input type="checkbox"/>
<i>It is crucial to read the Offering Document thoroughly before making any investment decisions.</i>		
(iii) Understand the Offering Document that was provided to you?	<input type="checkbox"/>	<input type="checkbox"/>

*If you do not understand the contents of the Offering Document, you should consider whether or not to invest until you can understand it.*

This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.

**C. Other Information**

*If you understand each question, mark the 'yes' box with an 'X'. If you do not understand each question, mark the 'no' box with an 'X'.*

Do you understand that you have:		YES	NO
(i)	The Right to Withdraw  <i>You may withdraw your investment only within 72 hours after the date of purchase the crowdfunding security.</i>	<input type="checkbox"/>	<input type="checkbox"/>
(ii)	The Right of Action  <i>Offering documents must provide a Right of Action against the issuer for rescission and damages, in the event the Offering Document or any other materials contain a misrepresentation.</i>	<input type="checkbox"/>	<input type="checkbox"/>

**D. Name and Signature**

By signing the 'Risk Awareness Form', you confirm that you have read and understood its contents. Electronic signatures are permissible.

First and Last Name (please print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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**\*\*TO BE COMPLETED BY ISSUER\*\***

Type of Securities: \_\_\_\_\_

Issuer's Name: \_\_\_\_\_

Email address: \_\_\_\_\_ Telephone: \_\_\_\_\_

Contact Person (issuer): \_\_\_\_\_

Issuer's Website: \_\_\_\_\_

Purchased from (Platform's name): \_\_\_\_\_

Platform's Website: \_\_\_\_\_

Contact Person: (Platform): \_\_\_\_\_

For more information, contact:

**This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.**

**Appendix B to Form 1**

**Investor Limits Form**

The Form is to be completed by all non-accredited investors, outlining the amount of funds that have been invested in crowdfund offerings for the year. The investment amounts should not exceed the established levels.

*Note: The Crowdfund Platform must supply all non-accredited supporters with a copy of the Form detailing the amount of money the supporter has invested in crowdfund distributions for the year.*

**A. Understanding of Investor Limits**

*If you understand each question, mark the 'yes' box with an 'X'. If you do not understand each question, mark the 'no' box with an 'X'.*

Are you aware that your limits as a non-accredited investor are as follows:	YES	NO
(i) You are allowed to purchase up to \$3,000 BSD in one calendar year.	<input type="checkbox"/>	<input type="checkbox"/>
(ii) You are allowed to invest up to \$500 BSD per crowdfund offering.	<input type="checkbox"/>	<input type="checkbox"/>

**B. Confirmation of Investor Limits**

I confirm that, after my crowdfunding investment of \$ \_\_\_\_\_:

- I would have not invested more than \$1,000 BSD in this single crowdfunding distribution, and
- I would have not invested more than \$3,000 BSD in a crowdfunding distribution for the entire calendar year.

**C. Name and Signature**

By signing the 'Investor Limits Form', you confirm that you have read and understood its contents. Electronic signatures are permissible.

First and Last Name (please print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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**\*\*TO BE COMPLETED BY ISSUER\*\***

Type of Securities: \_\_\_\_\_

Issuer's Name: \_\_\_\_\_

Email address: \_\_\_\_\_ Telephone: \_\_\_\_\_

Contact Person (issuer): \_\_\_\_\_

**This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.**

Issuer's Website: \_\_\_\_\_

Purchased from (Platform's name): \_\_\_\_\_

Platform's Website: \_\_\_\_\_

Contact Person: (Platform): \_\_\_\_\_

For more information, contact:

**Appendix C to Form 1**

**Form for Individual Accredited Investors**

This Form certifies that the investor is an accredited investor as defined under Part 1, Section 2 of the Securities Industry Regulations, 2012 and must be completed and forwarded to the Commission within five (5) days prior to the sale of any securities connected with this offering.

**A. Accredited Investor Category**

*If any of the following applies to the investor, mark the 'yes' box with an 'X'. If it does not apply, mark the 'no' box with an 'X'. Note: you must meet at least one of the following to be considered an accredited investor in The Commonwealth of the Bahamas (according to the Act).*

By clicking 'Yes', you certify that you are an accredited investor pursuant to Section 2 (1) of the Securities Industry Regulations, 2012.

Yes

No

**B. Investor Warning**

Do you understand that:

**YES**

**NO**

(i) Crowdfund securities cannot be traded on the secondary market except in certain circumstances?

(ii) You have the right to withdraw only within 72 hours after the date of the purchase the security?

**C. Name and Signature**

By signing the 'Form for Individual Accredited Investors', you confirm that you have read and understood its contents. Electronic signatures are permissible.

First and Last Name (please print or type):

\_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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**\*\*TO BE COMPLETED BY ISSUER\*\***

Type of Securities: \_\_\_\_\_

Issuer's Name: \_\_\_\_\_

Email address: \_\_\_\_\_ Telephone: \_\_\_\_\_

**This offering has not been reviewed or approved by the Commission, is risky and may result in loss of some or all of a purchaser's investment and an active secondary market will not develop for these securities.**

Contact Person (issuer): \_\_\_\_\_

Issuer's Website: \_\_\_\_\_

Purchased from (Platform's name): \_\_\_\_\_

Platform's Website: \_\_\_\_\_

Contact Person: (Platform): \_\_\_\_\_

For more information, contact:

**THIRD SCHEDULE**

**(Paragraph 18)**

**FORM 2**

**PLATFORM DUE DILIGENCE ATTESTATION**

**To be filed with the Securities Commission of The Bahamas within five (5) days of the first sale of securities**

I hereby attest that we have completed the necessary due diligence and confirm that nothing has come to our attention that would prohibit the offering from proceeding.

I further attest that the required information will be made available to the Securities Commission of The Bahamas in accordance with Section 79 of the Securities Industry Act, 2011.

Identified company subject to the background check:

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_



Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date of Sale of Security: \_\_\_\_\_