

## **RESP Dealers Association of Canada**

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July 27, 2004

### **Submission regarding Proposed National Instrument 81-106**

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Financial Services Commission  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers  
Office of the Administrator, New Brunswick  
Registrar of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Securities Commission of Newfoundland and Labrador  
Registrar of Securities, Northwest Territories  
Registrar of Securities, Yukon Territory  
Registrar of Securities, Nunavut

c/o John Stevenson, Secretary  
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Dear Sir/Madam:

On behalf of the RESP Dealers Association of Canada (the "Association"), I am providing this submission for your consideration on the second review of the proposed National Instrument 81-106 (released May 2004).

## Background of the RESP Dealers Association

The RESP Dealers Association was formed in 2000. The current members are:

- Allianz Education Funds, Inc., distributing the Heritage Scholarship Trust Plans
- C.S.T. Consultants Inc., distributing the Canadian Scholarship Trust Plans
- Children's Education Fund Inc., (formerly Education Fund Services Inc.) distributing the Children's Education Trust of Canada Plans
- USC Education Savings Plans Inc. (formerly Scholarship Consultants of North America Ltd.) (USCI), distributing the USC Education Savings Plans

The Association commends the Canadian Securities Administrators (CSA) in its development of the proposed National Instrument 81-106, Companion Policy 81-106CP (Investment Fund Continuous Disclosure), and Form 81-106F1 (Contents of Annual and Quarterly Management Reports of Fund Performance) and encourages its implementation. We thank the CSA for considering and incorporating many of our previous comments (December 2002) into the revised proposed instrument. Our further comments on the re-proposed instrument for your consideration are as follows.

### Part 1 Section 1.1

As defined in the Definitions section of the proposed National Instrument 81-106, a "group scholarship plan" is an arrangement under which "contributions to education savings plans are pooled to provide educational assistance payments to designated beneficiaries who are not related by blood or adoption within the meaning of the ITA". The wording of this definition has changed significantly from the previous draft where a "group scholarship plan" was defined as "a scholarship plan the securities of which entitle the beneficiaries, who are designated in connection with the acquisition of the securities that have the same year of maturity, to a scholarship award proportionate to the value of the securities in respect of which they are designated, on or after maturity of the securities".

Most Group Scholarship Plan Dealers offer both group plans and self-determined plans, the latter either for an individual or a family. In the group plan, contributors purchase units of the pooled plan for a named beneficiary and share proportionately in the income earned on the assets invested. In the self-determined option, the contributor enters into an agreement to establish an education savings plan for a child or related children. The contributor determines the amount and timing of contributions and the beneficiary receives a pro-rata share of the investment income earned on the contributions invested. The concept of units is not utilized under self-determined option for purposes of distributing income to beneficiaries, and as a result, the amount of education assistance payments is self-determined based upon the income earned in the contributor's account and the rules of the ITA.

The Association requests that the definition for group scholarship plans, be modified to include the self-determined plan option. We would propose the following definitions be used:

“a “group scholarship plan” means an arrangement under which contributions to education savings plans are pooled to provide scholarship awards to designated beneficiaries, who are not necessarily related by blood or adoption, on a pro-rata basis for a particular year of eligibility”: and,

“a “self-determined scholarship plan” means an arrangement under which contributions to education savings plans are used to provide scholarship awards to designated beneficiaries based solely on the income earned on the contributor’s deposits”.

Accordingly, the financial statement highlights to be reported for self-determined scholarship plans also require adjustment in order to exclude the reference to units.

### Part 3 Section 3.1

Based on the changes that have been adopted into the revised National Instrument, it is apparent the concept that scholarship plans not be unitized has been accepted. In continuing with this practice in reference to the Disclosure Requirements, 3.1 Statement of Net Assets, item 14 “Net asset value per security”, the Association requests that this should not apply to group scholarship plans nor to self-determined scholarship plans.

### Part 3 Section 3.2

In reference to item 3.2 Group Scholarship Plans, Financial & Operating Highlights, the Association recommends changing the “Total number of agreements in plans” to “Total number of units in plans” as scholarship awards are based upon a per unit share of the income; however, the Association further recommends that the units are only applicable to “group scholarship plans” and not to “self-determined scholarship plans”. Both group and self-determined plans should be required to otherwise provide the requested information.

### Part 3 Section 3.12

In the published comments and responses to the proposed National Instrument, it is noted that “(o)ne commenter suggested that the reference to year of ‘eligibility’ should be replaced with the word ‘maturity’.” The response was that “(w)e have made the change.” We are unclear as to how this requested change was incorporated in the previous comments submitted from the Association or from USCI. The timing and amounts of Scholarship Awards are determined based on the year of eligibility not the year of maturity. The Association requests that the reference be changed to “year of eligibility”.

Section 3.12, which is specific to Group Scholarship Plans, requires a summary of scholarship agreements and units outstanding by year of maturity. We request that this information be reported by “year of eligibility” not “year of maturity”.

Also, the requirement includes “disclosure of the number of units by year of maturity for the opening units, units purchased, units forfeited and the ending units.” This would be an extremely large amount of information to report to investors. We would submit that investors in a group scholarship plan are primarily interested in the ending units relating to their pool (year of eligibility). Accordingly, we request that the requirement be changed to include disclosure of total units for all combined years of eligibility with: opening units, units purchased, units cancelled, units transferred to another plan provided by the same organization, units where the beneficiary has received all available scholarship awards, matured units no longer eligible for further scholarship awards, other miscellaneous activities and ending units. Ending units would still be reported by year of eligibility. We believe that reporting units in this way for group scholarship plans would provide more useful and relevant information to investors and the regulators.

Because this section is only relevant to Group Scholarship Plans, this requirement should not apply to “Self-determined scholarship plans.”

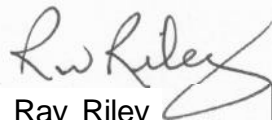
### Annual Information Form

We believe that the Annual Information Form (AIF) contains additional disclosure, principally for mutual funds, that goes beyond the nature and extent of information that would be available and meaningful for Group Scholarship Plans and Self-determined Scholarship Plans. We would therefore request that the nature and extent of information (e.g. units) to be reported in the AIF be consistent with that required in the proposed Instrument as described above.

We would also submit that an AIF is typically prepared for investment funds sold under a simplified prospectus and that all Group Scholarship Plans and self-determined Scholarship Plans distributed are sold under a long-form prospectus.

The Association appreciates the opportunity to provide these comments to the CSA. We are optimistic that these will be seriously considered. The Association would be pleased to meet to discuss any or all of the points that have been raised. We look forward to working closely with the CSA in the finalization of this very important National Instrument.

Yours truly,



Ray Riley  
Chairman  
RESP Dealers Association of Canada