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CSA NOTICE AND 2nd REQUEST FOR COMMENTS :
SCHOLARSHIP PLAN PROSPECTUS FORM

http://www.osc.gov.on.ca/documents/en/Securities-Category4/csa_20111125_41-101_rfc-scholarship-plan.pdf

Kenmar Associates, a non-for-profit investor education and protection organization welcomes the opportunity to comment on this second set of proposals regarding the SCHOLARSHIP PLAN PROSPECTUS FORM. We believe that the proposed scholarship trust disclosure document requires significant changes/clarifications , as outlined below, in order to provide understandable disclosure to the average Canadian who considers purchasing such products.

Introduction

Our understanding of Applicable Legislation : As we understand it , Group Scholarship Plans (GSP) are considered Investment funds under applicable securities regulation. GSP dealers are regulated directly by individual member CSA securities commissions and are exposed to regular compliance reviews. GSP's are subject also to the provisions of NI31-103 Registration and NI81-107 Independent Review Committees . A KYC-suitability regime per NI31-103 also applies to the sale of GSP's. Unlike MFDA dealers , GSP dealers do not need to report investor complaints directly to the CSA. Industry lobbyist , the RESP Dealers Association of Canada (RESPDAC) has developed a Sales Representative Proficiency course as the initial training and proficiency requirement for new sales representatives. This course has been accepted by the CSA members as the educational prerequisite to licensing as a sales representative for a scholarship plan dealer. We are not sure exactly what regulations apply re client account reporting – we recommend that at least the following should be provided: (a) an individualized annual return figure ; (b) details of the portfolio holdings; (c), the dollar value of the individual's share of the plan ; (d) fees charged during the period (e) income during the period and (f) an indication of how much the plan should be worth at the time the child is going to need it. We again assume return personal rate of return calculation methodology (modified Dietz)? is determined or approved by regulators and is consistent between GSP dealers.

Perhaps its best to start our detailed commentary by this extract from *The RESP Book* by RESP expert Mike Holman . He points out the reasons why parents should avoid Scholarship / Pooled / Group RESP plans:
Very, Very expensive. There are large upfront sales fees paid to the salesperson, which are paid from your contributions, and very high ongoing fees. They have restrictive rules that can mean getting less money out of the plan if the child doesn't go to school.

We add this footnote- the odds are high that affluent subscribers will recover their enrolment fees and enjoy some of the savings and investment earnings at the expense of low-income families. According to media reports,Group Scholarship RESP Plans are marketed relatively aggressively to low-income and immigrant communities. The people who are using GSP plans often have the least understanding of what other options might be available. We are therefore glad to see some reference of these alternatives in the Summary (It would be appropriate to also mention self-directed RESP's and Canada Learning Bonds)

More than disclosure is needed

The rules and fine print of a Group scholarship Plan are really beyond an average person's understanding - ordinary people have a misunderstanding of what it is they're signing up for. which is an exceptionally long-term contract. Because the prospectus terms & conditions are so complex ,we do not believe disclosure alone can adequately protect plan participants. Our own research report *Scholarship Plan investors: Smart Enough?* suggests more than disclosure is required. Additionally these plans are sold aggressively. Salespeople refer to the inflexibility as a benefit, since it is punitive to stop. The fact that many people do stop is precisely what the promoters are counting on, of course. Much like a DSC sold mutual fund in causing people to refrain from redeeming their lousy funds, it has been suggested that the inflexibility forces otherwise undisciplined people to 'stick with the program'. We don't buy it and we don't like it, but we thought we'd pass that along in order to provide balance to our (otherwise entirely negative) comments on these plans. We are of the strong conviction that enhanced investor protection is in order and accordingly,we have made a number of substantive recommendations.

Comments and Recommendations

Drop-out rate is informative stat: Our first observation is that several of the positives that we found in round 1 have been replaced by generally less robust provisions. For example the new draft has re-placed a requirement for drop-out rate disclosure in the Plan Summary with % of plans that did not reach maturity. This is not nearly as meaningful and we recommend retention of the drop-out rate, a term investors will clearly understand.

Prospectus delivery at POS : The Instrument still contemplates delivery of the prospectus, which consists of the Plan Summary document and the remaining parts of the prospectus within two days of the purchase. We again recommend that the CSA to require the physical delivery of the Scholarship plan prospectus before or at the point of sale. Our experience with mutual funds strongly supports the view that post- purchase delivery of key documents is, in practical terms, non-disclosure and therefore not in the best interests of investors. For many, a Scholarship plan is the only security they will ever purchase. Many of these investors have little to no financial literacy or numeracy leaving them vulnerable to abusive sales practices. For immigrants, their primary language may not be one of Canada's two official languages, thus complicating disclosure. This is why we argue that disclosures should be in advance of sale so that friends, family or other parties can help the investor interpret the documents and ask more informed questions before a commitment to purchase.

First para Under Plan Summary , we recommend changing "This summary tells you some key things about investing in the plan. It may not contain all the information you want. You should read the entire prospectus carefully before you decide to invest." to include a specific reference to Part B para. 6.1 " Overview of Scholarship Plan Life Cycle". We'd also change "may " to "does not" , change "want" to "need" and add the words " and understand" after the words "should read".This is a stronger warning and protection.

Conflicts-of -interest disclosure: We recommend that conflicts-of-interest should be disclosed by the sales representative (and the nature of the conflicts) in writing. Salesperson titles should not be misleading. Additionally, we recommend the CSA review the RESPDAC salesperson licensing program to ensure it is adequate to protect investors, updated to reflect new CSA regulations and effectively administered by an unbiased third party. We recommend that regulators require SGP dealers to sign a standardized Acknowledgment form that they have explained key information details in the Prospectus and that the investor understands and is making an informed consent to purchase.

Dispute resolution : According to OBSI , there is no particular trend in the Group Scholarship Plan complaints segment. They remain at a disproportionately high level.

	2008	2009	2010	2011
OPENED	25	12	17	16

It is well recognized that complaints to OBSI are just the tip of the iceberg so the core numbers are likely much larger. In the Investments segment, an industry at least 150x larger than GSP , OBSI opened 562 cases (just 35x the number of GSP cases). OBSI provided one case example in its 2010 Annual Report http://obsi.ca/images/document/up-2OBSI_Annual_Report_2010_HR.pdf pg 35. In that case the issue was "temporary termination " of a plan. In the end ,the firm was held responsible for ineffective notification of potential forfeiture. We add parenthetically that participation in OBSI is not mandatory for Plan dealers as it is for brokers and mutual fund dealers. We recommend that regulators impose such a requirement - otherwise a dealer could leave at will with minimum notice as TD Bank did last November. In fact ,OBSI confirms that a GSP dealer resigned when they resigned from RESPDAC. We note also that Group RESP dealers have yet to agree to a standing tolling agreement.

Clarification of commitment: In our experience , the most frequent complaints arise from complex rules Re: the lack of flexibility in Group Scholarship RESP plans. A lot of parents subscribe without fully realizing that they are committing to contributing regularly to their child's RESP and if they miss contributions they might lose the Government grants, earnings on their contributions and initial enrolment fees. We therefore recommend changing the text "A group scholarship plan can be a long-term commitment to "A group scholarship plan **is a** long-term commitment".

Unusual events: Some parents (or grandparents) stick with the contribution schedule until their child is in University and then discover that Group RESP rules are more restrictive than Government rules that deal with RESP withdrawals. One parent found out that his child does not qualify for payments because he switched to another program in the same University. Another found out that her child does not qualify for payments because of a strike at the University. We recommend that the Prospectus provisions should provide clarity on unusual events .

Risk disclosure: Under *What are the risks?* we would add that there is a risk of loss if a child should fall ill and miss a significant chunk of the school year. Alternatively, the Prospectus T&C's could waive any penalties or sanctions during the period of incapacitation. Another major risk is that the fund may not generate much or any return after fees – this is especially true for fixed income securities in a low interest environment. We recommend that this be articulated.

Tax implication:s Under *What is a Group Scholarship Plan ?* we recommend that there should be a statement that EAP's are taxable in the hands of the student. We note also that under *How much does it cost?* there is oblique mention of taxes- we recommend that it be made clear that GST/HST is an integral part of the cost of ownership.

Enrolment fee return: Since the enrolment fee is not part of the investment base , it therefore is a cost of the investment even if 100 % returned at contract maturity. It does not earn any money and is returned after many years in deflated dollars. We recommend that Prospectus Disclosure should highlight this important point - this does not occur with self-directed RESPs. See http://www.canadiancapitalist.com/the-mer-on-group-scholarship-plans/ for the impact of this.

Cost disclosure: We find the $100 per unit sales charge to be of little meaning. We recommend stating: *For every $2,500 investment, you pay $ X in fees as a sales charge in year one.*". Context is very important. Also, it should also be mandatory that the prospectus or other document make it clear to the client that there are penalties for various items such as account transfers to another institution in particular.

Qualifying Institutions and Programs: We don't agree with the removal of the requirement for a prescribed table setting out specific types of institutions and programs. The revised rule now only requires a description of the types of programs that are and are not eligible for EAPs based on characteristics such as the types of educational institutions offering the program, length of programs and the location of the educational institution.We recommend that the CSA should require these Plans to better reveal, a priori, the Institutions and courses of study that are eligible and non-eligible. An after-the fact discovery of non-elligibility can be a life-altering shock for a parent and his/her child.

Fee stability: The investor is committing to a series of payments over a period of many years yet it seems that there is no corresponding commitment to maintain management fees, and operating expenses fixed during the period. If fees can increase, this would decrease returns and the value equation. Thus we recommend this risk, *Fee Risk*, should be highlighted in the disclosure.

Insolvency protection fund: Dealer or fund insolvency (or even fraud) are of course real risks that ought to be disclosed. We recommend that the language under *Are there any guarantees ?* be changed to *Are there any guarantees ? Unlike bank accounts, guaranteed investment certificates, investments in scholarship plans are not covered by the Canada Deposit Insurance Corporation or any other government deposit insurer. Unlike stock and mutual fund dealers, Group Scholarship Plan dealers are not insured by any industry- sponsored contingency fund.*

Summary

We believe the proposed disclosures (with our suggestions incorporated) , if implemented and enforced, will help reduce GSP problems and investor complaints. Generally, we like Appendix A's style, plain language and format and especially the section *Who is this plan for?*. Kenmar have found that certain key cautions should be printed in BOLD RED to draw attention to bear traps. For instance ,the impact of failing to enter a qualifying school or program deserves special highlighting.

Many RESP investors think the money must be used solely for tuition, to pay for university or college fees. In fact, as long as people can provide evidence that their child is enrolled in an eligible institution, the money can be used for any aspect of their support, including residence, textbooks, technology needs or travel. There is also a general misconception that only parents can open an RESP account for their child .In fact, RESP accounts can be opened by anyone, even if they are not related to the child. Permission from the parent is needed by the parent, though, for someone else to open an account. We do hope that regulators address the many misunderstandings that continue to be so prevalent with these plans (The group RESP industry in Canada represents over $8.5 billion in assets under management, roughly one-third of all the funds invested in RESP's.)

We again recommend that the OSC's (and other provinces) Education arm [http://www.getsmarteraboutmoney.ca/Pages/default.aspx] beef up and update its educational material on RESP's (including a basic Checklist) . We believe regulators should do as much as possible to inform investors (subscribers) in plain language of GSP pros and cons from an independent, unbiased perspective.

Should you require any additional information, do not hesitate to contact us.

We agree with the public posting of this Comment letter.

Sincerely,

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