RESP DEALERS ASSOCIATION OF CANADA

ASSOCIATION DES DISTRIBUTEURS DE REÉÉ DU CANADA

VIA EMAIL

January 24, 2012

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

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Dear Sirs/Mesdames:

RE: CSA Notice and Request for Comments –Scholarship Plan Prospectus Form – Changes to Proposed Amendments to National Instrument 41-101 *General Prospectus Requirements*, Form 41-101F2 and Related Amendments – Second Publication Published for Comment on November 25, 2011

The members of the RESP Dealers Association of Canada (RESPDAC)[1] are pleased to provide the Canadian Securities Administrators (CSA) with this letter confirming their overall support for the CSA's efforts to ensure that subscribers to group and self-directed education savings

[1] Members of RESPDAC are: C.S.T. Consultants Inc., Heritage Education Funds Inc., Knowledge First Financial Inc. and Gestion Universitas inc. Together these firms manage and administer over $9 billion in group and self-directed education savings plans that are qualified for sale to the public under a prospectus.

plans (ESPs or RESPs)[2] have access to clear and concise information about their investment choice to allow them to make informed decisions.

Overall, we are gratified to see that the CSA appear to have considered carefully our comment letter written in response to the first publication for comment of the proposed prospectus disclosure rule in March 2010, as well as our responses to the OSC staff's requests for further information and submissions during the development of this revised version. As you can appreciate each of our members has a significant stake in this process, given their wish to ensure the most accurate and useful information about their various plans is given to investors. Our past submissions to the CSA on disclosure, as well as on other CSA regulatory initiatives, have emphasized that the current disclosure regime that applies to group RESPs does not, in our view, achieve the objectives of the CSA and could be described as counter-productive to the goal of ensuring that subscribers understand their investment decision.

The central principle of RESPDAC's ideal regulatory model is **clear, concise and relevant disclosure** to investors about the plans at the point of sale. We all concur that it is in *everybody's* best interests that subscribers know as much as possible about their investments before making any commitment. In our earlier submissions, we provided CSA staff with our proposal for a summary document that is tailored to the unique characteristics and needs of group RESPs and their investors. Our central principle is that a subscriber to a group RESP must be given the tools to allow for reasonable comprehension of the important facts concerning their potential investment, as well as their relationship with the sales representative of the applicable dealer. These tools must:

(a) provide subscribers with key information about the plan, *using neutral non-promotional language*

(b) provide the information in a simple, accessible and comparable format and

(c) provide the information before the subscriber makes his or her decision to enter into a contract.

Subscribers need disclosure that can give them a basic and correct understanding of the potential benefits, risks and costs of entering into a contract and to be able to meaningfully compare one plan to another. **We consider that the disclosure goals of our members and association are completely aligned with those of the CSA**.

RESPDAC responded to the OSC's request for comment on its draft Statement of Priorities for the fiscal year ending March 31, 2012, in its letter dated April 27, 2011 supporting the following OSC priority:

> *Build confidence in the investment process and the integrity of our capital markets through requirements that investors be provided with information that is timely, clear*

[2] Notwithstanding the CSA's recent responses to our previous comments on terminology, we continue to consider that the CSA's terminology - "scholarship plans" – is out-of-date and potentially misleading. Please see our renewed comment on terminology in this letter. Throughout this letter, we use the terminology that we consider accurate and not misleading – that is, group or self-directed ESPs or RESPs.

> *and useful.* ***Better information, and not just more information, will allow investors to make more informed choices.*** [emphasis added].

RESPDAC also completely supports Recommendation 23 contained in the final report of the 2011 Task Force on Financial Literacy - *Canadians and their Money – Building a brighter financial future* released in February 2011.

> *The Task Force recommends, given the importance of clear communication, that the federal, provincial and territorial governments require all financial services providers within their respective jurisdictions to* ***simplify*** *their informational materials and* ***disclosure documents.*** [emphasis added]

We completely endorse the Task Force's discussions on the need for "clear communications", as well as its recommendations that governments and industry participants alike continue in their efforts to ensure Canadians save adequately for higher education and retirement.

We recognize, and appreciate, that the CSA have made important and significant changes to the disclosure proposals, primarily to remove duplicative and overly complex, as well as inaccurate and unduly negative disclosure. However, we continue to have concerns with the CSA's recent proposals, which we will outline in this letter and its Appendix.

As we will outline in greater detail below our central comments are that the CSA's proposals remain:

- Overly complex - information is mandated that will be daunting to the average investor, hence will not likely be read; and, even if read, will not be easily understood, since most investors do not have the context to understand this information.

- Too long – we have not had the time to prepare a mock-up of the CSA's proposals as we did for the first publication version, but we anticipate that the CSA's revised proposals will still mean that the entire prospectus document will be around 80-100 printed pages long.

- Overly negative and non-neutral – disclosure is mandated that, in our view, is focused on *deterring* investors from setting up a group RESP, through the use of mandatory language that is not neutral in tone and overstates the risks inherent with group RESPs.

- Too prescriptive – there are many instances of mandated language for the various disclosure items, which our members feel has the real probability of undermining their plan's obligations to provide full, true and plain disclosure of all material facts about their operations and management. The prescriptiveness of the language has required us to provide many comments to the CSA in order to correct the proposed language to make it accurate and to allow for more complete and balanced disclosure.

- Uncoordinated with other disclosure requirements under the various provincial securities regulations, including the "relationship disclosure" required by National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations.* This

means that some disclosure will be duplicative and investors will be given the same or similar information in more than one document.

- Uncoordinated with the expectations of Canada Revenue Agency (CRA) in connection with disclosure of RESP rules.

- Ordered in a way that is inconsistent with the experience of subscribers to group RESPs – that is, the mandated ordering of the document does not "flow" to provide the information about group RESPs in a way that follows the life-cycle of a group RESP.

In our June 2010 comment letter, we outlined an alternative disclosure model, which we continue to believe would serve to better enable potential group RESP subscribers to make informed decisions. Our alternative disclosure model would consist of:

(a) **An expanded Plan Summary.** An expanded Plan Summary would serve as a "quick start" reference for potential subscribers. This document would be provided, along with (or ideally combined with) the relationship disclosure information mandated by NI 31-103, the application signed by the subscriber and the other account opening documents at point of sale.

(b) **A more streamlined prospectus** A streamlined prospectus would be available on request for any subscriber – and the most recent version of which would be clearly posted on member's websites for ease of reference, along with the NI 81-106 mandated documents, and, for those members who have established individual account "online portals", also on the individual's on-line accounts[3]. These documents would collectively provide a higher level of detail about the Plans as a form of "users'" manual for subscribers wishing to ensure understanding of their Plan at any time along the potentially 36 year life of the Plan. The prospectus would not be divided into different parts (i.e. Parts B, C and D), but rather would follow a logical flow through the life cycle of a subscriber's experience with the plans offered by the plan provider. Background information about the plan sponsor, as well as the governance of the plans would be provided.

(c) **Financial statements, MRFPs etc.** The documents required by National Instrument 81-106 and National Instrument 81-107 would continue to be available on request (and delivered as mandated by NI 81-106), with the most recent of which being posted on our members' websites.

Overall Comments on the Revised Disclosure Proposals

Our members have spent a significant number of hours, both collectively and also individually, reviewing both the initial proposal, as well as this revised proposal, and developing our submissions. We recognize that the rule-making process permits this second publication to be published for a shorter comment period (60 days). Our members have each reviewed this second publication as carefully as they could within their organizations, but given the time period (the

[3] The prospectus posted on each individual subscriber's online portal would be the prospectus pursuant to which the subscriber acquired his or her RESP.

December year-end and holiday/vacation period) during which this comment period fell, we are less certain that we have captured all of the nuances of the proposed revised disclosure. If we note anything after the date of this comment letter, that either is incorrect or we consider inaccurate or impossible to provide, we will notify you of this fact and we hope that you will consider our further submissions. In any event, we hope to meet with CSA staff to discuss our comments to ensure appropriate understanding of our various positions, and to discuss possible alternatives to accommodate our comments. We offer again, as we have done on other occasions, to review any final version of the revised disclosure rule prior to its publication to ensure accuracy in the requirements. Given the technical nature of group RESPs and the degree of prescriptiveness proposed by the CSA, we feel this is the most efficient way to ensure that any final rule does not contain inaccuracies, or difficult or impossible to provide information. We consider that this will best serve subscribers, the industry and the CSA, alike.

As we did for the March 2010 first version of the proposals, we provide detailed comments on each of the proposed disclosure items in the Appendix to this letter, but first we would like to elaborate on our overall reaction to the revised disclosure proposals.

1. *Terminology*

We have two comments about the terminology used in the disclosure proposals, which apply both to the language used by the CSA in the forms, as well as the terminology proposed to be mandated for our members.

(a) *The term "scholarship plan"*

Notwithstanding the CSA's response to this comment made in our June 2010 response letter (and in our other submissions), we continue to urge the CSA to reconsider the continued use of the term "scholarship plan" to describe the securities that are being acquired by subscribers. This was a term that was commonly used when some of our members first commenced their business (in the 1960s), but it is not used by our members in their current promotional materials and has not been used for some time in those materials. Given that the plans do not pay "scholarships" (which has a different meaning and tax result from payment of "education assistance payments") **and CRA prohibits our members from advertising that the plans pay "scholarships**", we feel that to continue to be required to use this term to describe the plans may be misleading to some consumers. Our members believe that the more straightforward and neutral term "group education savings plan" for a group plan and "individual" or "family" education savings plan for a self-directed or self-determined plan is more understandable for investors and is accurate. This is the terminology that is used by the federal government to describe our investment products.

We disagree with the CSA that the term "scholarship plan" is necessary to differentiate our product from other RESPs available in the marketplace. The central over-riding premise of our members' products is that investors will obtain a "registered education savings plan" **– that is, there will never be any investor that will not set up an RESP when they invest in our members' products.** We do not understand the CSA's comment about avoiding perceptions that the "plan" is an RESP, rather than a product that is *eligible* to be registered as such. Each of our members' plans has a specimen RESP number with the federal government – each plan *is* a

group education savings plan and each investor acquires an RESP. To state otherwise, is, in our view misleading.

We point out that Canadian securities regulation does not define the term "scholarship plan" in the same way as the terms "mutual fund" and "non redeemable investment fund" are defined, and therefore we are not asking for regulation to be amended[4]; simply to be able to use terminology in our prospectus documents that is accurate and not misleading and to have the prospectus disclosure rules applicable to group RESPs use accurate terminology.

In any event, our members expect that they will continue to not use the term "scholarship plan" in their marketing materials and will avoid using it in the prospectus documents to the greatest extent possible.

(b) ***Other mandatory terminology***

In our view, certain of the terminology proposed by the CSA, particularly in the mandatory language, is not accurate and our members need the flexibility to use language that fits with their plans and their understanding of applicable government taxation policy.

It is also essential that our members be able to define *additional* terms that are commonly used in the prospectus documents in the glossary in ways that make sense for them. We do not understand the restrictions proposed for the glossary in the CSA proposals, particularly given that defined terms generally reduce the complexity of technical documents and are much preferable than repeating explanations or longer phrases throughout the document.

Our comments on terminology follow:

(i) The term "grants" when used in relation to the federal and provincial moneys available for investments in RESPs is not accurate. The federal government's Canada Education Savings Grant and the Alberta Centennial Education Savings Plan Grant are the only programs that are referred to as "grants". The other programs are "incentives" or "bonds". We recommend the neutral (and readily understandable phrase) "government incentives" to cover both.

(ii) The phrase "sales charges" is not accurate and is not the phrase our members use. Our members use the phrase "enrolment fees" or "membership fees" and need the flexibility to continue to use this term. We do not see that there is any regulatory policy reason to force our members to use a different term, which they believe is not accurate, when our members use a consistent term that is readily understandable by investors. We have no objection to disclosing the purpose of this fee and what it is paid for and to whom.

[4] We recognize that the term "scholarship plan dealer" is embedded into NI 31-103 and elsewhere in securities regulation. We know that amending this term is not within the ambit of the current prospectus disclosure project and we are not advocating this change at this time, although we do recommend that this terminology also be updated by the CSA in due course.

(iii) The word "restrictions" when used to describe the terms of our members' plans is unduly negative. A more neutral and as accurate word would be "conditions" and we recommend this word be used in place of the CSA's word "restrictions".

2. *Overall Complexity*

Notwithstanding the significant efforts of the CSA to simplify some of the disclosure items in the revised prospectus disclosure form, we continue to consider that our members' prospectuses will continue to be overly complex and difficult to read and comprehend. We have outlined in the Appendix our most significant issues relating to overall complexity and, in particular, have pointed out where we consider the required information to be difficult to read and therefore can be expected to be of little use or value to a reader.

3. *Length of the Prospectus Documents*

Given the shorter comment period, we have been unable to prepare a sample Plan Summary document and a sample prospectus document as we did for the first disclosure proposals (as we referred to in our June 2010 comment letter).

However we wish to emphasize that the CSA's revised proposals will still require a plan sponsor (with 3 plans) to:

- Prepare a Plan Summary of 4 pages in length for each plan, which means that the bound Plan Summary will be 12 pages long (translating to a 6 double-sided page booklet).
- A 3-part prospectus document of anywhere from 80-100 pages, which will consist of (in our estimation):
    - a 14-16 page Part B section (inclusive of cover page and inside front cover)
    - a 19-20 page Part C section for each Plan [57 pages in total]
    - 13-14 page Part D section.

Given our detailed comments in the Appendix, we consider that these documents will remain too long and unwieldy to allow consumers to really use them in making investment decisions.

4. *Overall Tone*

We continue to consider that the overall tone of the CSA's revised disclosure documents, particularly the Plan Summary, requires our members to provide a negatively biased description of group RESPs, although we appreciate that the CSA have responded to our comments on this topic in respect of the March 2010 versions. As we outlined in our June 2010 letter, the Plan Summary should simply state the relevant facts using neutral (neither positive or overly promotional nor negative or overly judgemental) language. The Plan Summaries should avoid superfluous judgemental or subjective descriptive language, including the use of unnecessary adjectives.

Much of the Plan Summary continues to be devoted to the perceived *risks* of group plans, and explaining to investors how they can cancel their plan after enrolment. We agree that this is important information, but we continue to consider there must be some reinforcement of the *benefits* of investing in a group RESP, as well as the wisdom of staying in a plan. One of the very important essential benefits of group plans is that they offer a steady, consistent and very safe form of saving, with little downside risk in the assurance of asset growth. That balance is missing in the overall message, in our view, in that there is very little ability (if any) for our members to describe the benefits of group RESPs.

As we point out in more detail in the Appendix, much of the mandatory Plan Summary disclosure is written as if the Plan Summary were a 'consumer education' warning piece put out by the regulators or by a consumer advocacy group. As we note below, the Plan Summary is part of the "prospectus" for a group RESP, which is a disclosure document mandated by securities regulation, with applicable disclosure standards long enforced by regulators and adhered to by our members. It is critical that group RESPs, like other issuers of securities, be permitted to include "full, true and plain disclosure of all material facts" that adequately describes their securities, given the statutory liability that attaches to such disclosure under applicable securities regulation. Our members consider that additional flexibility is essential, as is more neutral language. Please see our comments 5 and 10 (below).

To better illustrate why we continue to comment on the tone of the Plan Summary, it is instructive to compare certain aspects of the sample Plan Summary to the same aspects of the sample Fund Facts for mutual funds (contained as part of the Companion Policy to National Instrument 81-101). In our view, the additional, more detailed (and judgemental) commentary required for a Plan Summary is simply not justified for a group RESP, when the same or similar commentary could be made for any mutual fund, but is not required disclosure in the Fund Facts. We also point out that unlike mutual funds, the Plan Summary for a group RESP must be accompanied by the rest of the prospectus document, which must be printed in a separate document. For mutual funds, if the CSA's August 2011 proposed amendments to NI 81-101 come into effect, the ***only*** document a mutual fund investor will receive is the 2-page Fund Facts document for the particular class or series being invested in – and they will receive this after the actual trade is completed, as required by current securities legislation.

Risk disclosure	
Plan Summary	**Fund Facts**
• Mandatory statement in increased font as virtually the first statement on front page with bold type-face statement: **Keep in mind that you pay sales charges up front. If you cancel your plan in the first few years, you'll end up with much less than you put in.**	• Approximately 1/6th of a page under the heading "How risky is it?", with lead-in statements, followed by a simple table. When you invest in a fund, the value of your investment can go down as well as up. XYZ Mutual Funds has rated this fund's risk as medium. For a description of the specific risks of this fund, please see the fund's simplified prospectus.
• Three-quarters of one full page under heading "What are the risks?", with the	

lead-in statements: If you do not meet the terms of the plan, you could lose some or all of your investment. Your child may not receive all of their EAPs. You should be aware of five things that could result in a loss. • [the five issues are described with mandated language that goes on for half a page, with no cross reference to the prospectus]	
References to other documents at the beginning of the document	
Plan Summary	**Fund Facts**
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.	This document contains key information you should know about XYZ Mutual Funds. You can find more detailed information in the fund's simplified prospectus. Ask your advisor for a copy, contact XYZ Mutual funds at [] or [] or visit [].
Reference to lack of guarantees	
Plan Summary	**Fund Facts**
We cannot tell you in advance if your child will qualify to receive any payments from the plan or how much your child will receive. We do not guarantee the amount of any payments or that the payments will cover the full cost of your child's post-secondary education. Unlike bank GICs, investments in scholarship plans are not covered by the Canada Deposit Insurance Corporation or any other government insurer.	Like most mutual funds, this fund doesn't have any guarantees. You may not get back the amount of money you invest.
Disclosure of Up Front Fees	
Plan Summary	**Fund Facts**
This is a commission for selling you the plan. It is paid to your sales representative and the company they work for. Because the fee is applied against your contributions until it's paid off, less of your money is invested in the early years of your plan.	• Disclosure of front end load fees: You and your adviser decide on the rate. The initial sales charge is deducted from the amount you buy. It goes to your investment firm as a commission.

5. *Excessive Degree of Mandated Language and Other Prescriptive Elements*

The proposed disclosure regime would require group RESPs to make disclosure in a prescribed format and, in many instances, using mandated language.

In our view, the high degree of prescriptiveness, particularly in the Plan Summary, where virtually every disclosure item contains an element of mandatory wording, is both unprecedented in the financial services industry and unwarranted for group RESPs. The degree of prescription will lead, in our view, to awkwardness of fit of the mandatory language to the actual operations of the different group RESPs (they are not all the same) and may lead to difficulties for the senior executives and directors of the entities that must certify the prospectus, in that they may consider that the disclosure is misleading and needs to be modified or further expanded upon, but the form requirements do not permit this. We note, in particular, that the form requirements specifically state that a group RESP may only provide the disclosure required and cannot supplement it or change the ordering. We expect that this will lead to an increased regulatory burden for our members in (i) trying to fit the specifics of their group RESPs into the mandatory requirements, (ii) advising senior executive and directors of their regulatory obligations and accountability and explaining how those obligations and accountability can be met in the context of the Plan Summary and prospectus document and (iii) attempting to clear different, modified language that fits with the specific group RESP, but is different from or expanded upon from the mandatory language, with the staff of the various provincial securities commissions.

We point out many examples in the Appendix to this letter where we find the mandatory language to be problematic. We ask that you please read this comment in conjunction with our comments 4 (above) and 10 (below).

We note also, that the large volume of comments in this letter is largely due to the fact that we consider it necessary to ensure that any mandated language is accurate, not misleading (because it omits important facts) and properly reflects the operations and management of group RESPs. Our comments should not be taken as criticisms of the *concepts* behind the various disclosure items, although we do have examples of disclosure that we consider irrelevant and not meaningful. We urge the CSA to pull back from mandating wording for the various disclosure items in so many areas.

6. ***Lack of Coordination with Other Regulatory Documents***

In our June 2010 comment letter, we reminded the CSA that investors in group RESPs are also required to be provided with a copy of certain "relationship disclosure" in advance of entering into a contract. We pointed out that the disclosure in the Plan Summary and prospectus will be duplicative of much of the disclosure required to be provided by our members under National Instrument 31-103 and, with the CSA's proposed cost and performance disclosure proposals, this duplication can be expected to increase. The CSA's response to our earlier comment suggests to us that there remains some misunderstanding about the sales process with group RESPs and exactly what documents are provided at which point in time to subscribers.

When our members meet with subscribers (generally face-to-face) to discuss setting up a group RESP, the subscriber is left with a package of documentation so that he or she can review this information in order to make an informed decision and is given additional information for their files once the contract is entered into. This documentation generally includes:

- The "relationship disclosure information" required by section 14.2 of NI 31-103. We provided OSC staff with copies of this disclosure currently being used by all members.

- The executed plan contract
- The account opening form
- The applicable government incentives application forms
- Plan prospectus (although some of our members are or may in the future electronically deliver the prospectus and/or post these documents on individual client account portals).
- Insurance information and forms, including an Insurance Distribution Guide as required by applicable insurance laws in Quebec.
- Other forms as may be appropriate to meet plan requirements or to address various compliance issues, inclusive of federal grant or tax requirements.
- Trade confirmation (after the contract is entered into) as required by law.
- Promotional, explanatory material.

The vast majority of information provided to subscribers is mandated by applicable laws – that is, promotional material is only a small portion of the information, and not all members provide such material at or during the account opening process. As you can appreciate, subscribers receive a lot of mandatory information and we wish to ensure that to the greatest extent possible none of that information is duplicative. In our experience, duplicative information tends to dilute the significance of the documents for a reader (i.e. they may feel they have "read this already", so will not read ***any*** of the documentation) and can lead to inconsistencies in details and hence confusion for subscribers.

There is generally no other time during the life of an RESP set up for a subscriber, that a subscriber will ever receive another prospectus or another copy of "relationship disclosure", although some of our members may deliver a new prospectus when a subscriber increases contributions and subscribes for additional units. Both the prospectus and the "relationship disclosure" documents are provided at "account opening" and entry into of the plan contract. If a subscriber wishes to set up another group RESP for another beneficiary or beneficiaries, our members treat that subscriber as a wholly new subscriber and account, and the subscriber will receive another copy of RDI, as well as a new prospectus at the time he or she sets up the new account.

We would like to explore with the CSA the ability to essentially "combine" the information required by section 14.2 of NI 31-103 with the information required to be provided in the Plan Summary. We consider that all of the required disclosure set out in section 14.2 of NI 31-103 is already required to be provided in the revised Plan Summary, except for the following items, each of which could easily be included, with minimal additional space requirements, in the Plan Summary [the alphabetized bullets are references to the sub-paragraphs of section 14.2 of NI 31-103]:

- (d) *risks of borrowing money to invest*

- *(i) account reporting*
- *(j) disclosure of dispute resolution resources*
- *(k) statement about suitability obligations of the dealer*
- *(l) description of the KYC information the dealer collects.*

In our view, this objective could be easily accomplished by the CSA acknowledging that the section 14.2 "relationship disclosure" (NI 31-103) could be provided in the Plan Summary. We do not consider that a formal exemption from NI 31-103 is necessary, but if the CSA consider this is necessary, we would be prepared to seek this exemption on behalf of our members. The CSA would have to amend the disclosure form for the Plan Summary to permit this additional disclosure.

We note that, at the invitation of staff in the OSC's Registrant Regulation & Compliance Branch, we will be meeting with CSA staff on January 24, 2012 to discuss the CSA's proposals for additional "cost and performance" disclosure in the context of group RESPs. Our comments on the CSA's proposals to amend NI 31-103 to require this additional disclosure – both at point of sale and annually thereafter -- are outlined in our letter dated September 23, 2011. We have urged the applicable OSC staff to consider these comments on the CSA's proposals for group RESP prospectus disclosure when developing their revised proposals regarding cost and performance disclosure, given the significant overlap between the "relationship disclosure" required under NI 31-103 and the proposed Plan Summary and prospectus for group RESPs.

Although we consider the above proposal as inherently more beneficial to subscribers, as an alternative, if the CSA consider that three documents are necessary (the Plan Summary, the Prospectus and the RDI), we strongly recommend that group RESP dealers be permitted to bind the RDI with the Plan Summary, so that a subscriber will have in one bound document, all applicable regulatory disclosure (even though much of it will be duplicative). This will enhance the importance to a subscriber of reading this information – to do otherwise will run the risk of the subscriber reading none of the information because of information and document overload and lack of understanding of the importance of these documents.

Please keep in mind when considering this comment, that our members essentially only distribute group RESPs and except for a very minor degree, our members' group RESPs are **only** distributed by the related scholarship plan dealer of the applicable product sponsor and manager. Our proposal would apply only where the sponsor and manager of the applicable group RESP is within the same financial group as the applicable scholarship plan dealer.

We wish to emphasize that this comment is written primarily with a view to enhancing a subscriber's ability to read and understand the applicable mandatory information. Our primary objective is the same as the CSA's – namely to ensure that subscribers understand the nature of their investments, by making it easier for them to access and absorb the information that our members are mandated to give them.

7. *Lack of Coordination with CRA Requirements*

We point out several areas in the proposed prospectus form where the mandated disclosure is at odds with what our members have been told by CRA officials regarding disclosure of the various terms and features of group RESPs. We have not been able to have the disclosure proposals reviewed by any external tax experts, given the time of year and our other commitments, but we strongly recommend that the CSA liaise with the Registered Plan Directorate of the CRA to ensure that they have no concerns about the disclosure, beyond what we have identified.

8. *Organization and Flow of the Prospectus Document*

We continue to disagree with the concept of a four-part prospectus document, including the separate Plan Summary – with both the Plan Summary and the three-part prospectus being required to be delivered to an investor within the timing established by provincial securities legislation. We know that the CSA took its experience with mutual fund prospectuses (NI 81-101) and applied it to our investment products. However, given that most of our members distribute (at the most) only three plans (a group, an individual and a family plan[5]) and some offer each plan under separate prospectuses – separate Part As, a Part B, separate Part Cs and a Part D simply is not justified. This is in direct contrast to mutual fund simplified prospectuses which cover upwards of 100+ very distinct mutual funds, each with different investment objectives and strategies and risks, and therefore some mandatory structural organization is necessary to ensure investor ease of reference. As we note above, under our ideal disclosure model, the prospectus documents should be viewed as a resource document – for those investors who want additional information – either at point of sale or at any time in the future. We believe a more logical flow of the document is warranted, along with additional streamlining.

Even though the form permits some common elements to be combined and we recognize and appreciate the CSA's efforts to prepare a more streamlined form with these revised proposals – we believe investors will be very confused by the new prospectus and will not review it, given its complexities, repetition and lack of logical "flow". We have concluded that the longer prospectus document will be a very lengthy, awkward, choppy document that will not invite many to read it.

The Plan Summary will contain virtually identical information for each of the Plans (whether group or self-directed RESPs), which will, in our view, tend to obscure the differences between the Plans. We consider it would be much better disclosure to describe the Plans collectively and point out the significant differences between the different plans, than to leave this exercise up to the investor, who will need to read three Plan Summaries (much of which will be identical) in order to sort out what is different between the Plans. This seems to our members to be an exercise in "spot the differences" or "where's Waldo?", which we don't consider useful or helpful to investors.

[5] For example C.S.T. Consultants offers a separate family RESP and a separate individual RESP – there is absolutely no difference between the plans other than the appointment of beneficiaries. Other RESPDAC members offer a single self-directed RESP option.

9. ***Lack of Clarity on the "Prospectus" Required by Law***

Assuming the CSA proceed with its proposals, we urge the CSA to clarify what documents are collectively the "prospectus" for a group RESP as required by, and referred to under, applicable securities legislation. It is not clear from the rule amendments that all four parts - namely the various Plan Summaries and the three-part prospectus document -- must be considered together as the "prospectus". We also are unclear whether or not the CSA expects both documents to be delivered to subscribers pursuant to the timing established by securities regulation, although we have assumed this to be the case in this letter.

We believe that subscribers will be similarly confused as to which documents give them statutory rights of action. We make some suggestions to clarify the disclosure in the Appendix. We also recommend that the second, longer document be given a distinct name to differentiate it from the RDI, the Plan Summary and the other mandatory documents. An investor must know why he or she should read these documents and be given some indication of what the various documents are on their face.

10. ***Lack of Flexibility to Meet Disclosure Standards***

We consider that the extreme lengths that the CSA has gone to, to mandate specific language (even though flexibility is granted to make the required disclosure using "substantially similar wording") about the various features and attributes of group RESPs, particularly in the Plan Summary, but also in the prospectus, potentially leaves our members in the awkward situation of having to ask the senior executives and directors of their organizations who are responsible and liable for the prospectuses, to sign off on documents that those executive and directors may consider inaccurate and potentially misleading (largely through omissions of material facts and unbalanced disclosure). We note that almost the entire Plan Summary has been written by the CSA, with only very minimal flexibility being provided to change language. Our members, and their senior executive and directors have statutory liability for the contents of the prospectus documents and must have the flexibility to provide disclosure to subscribers that is accurate, not misleading and in conformity with applicable disclosure standards. We have provided examples of where we believe the language must be made less categorical and more flexibility granted to the individual group RESPs for more balanced, nuanced disclosure in the Appendix and we urge the CSA to keep this comment in mind as you work through our other comments.

We consider this comment to be of utmost importance to our members and it colours many of our comments, particularly where we are making the same comment to the CSA as we did in our June 2010 comment letter, which the CSA have not adopted for various reasons, including where the CSA responded that they did not consider a particular mandatory disclosure item to be "misleading" or "inaccurate", without further explanation.

This comment is related to our comment 4 above.

11. ***Transition***

The current revised proposals do not provide for any form of transition. Given the extensive rewrites and additional technological systems changes that we know will be required (even if the CSA adopt many of our recommendations), our members expect they will need at least eight

months lead time before their pro forma renewal date to prepare the new documents. We note that today, our members start readying their renewal prospectus and associated materials at least three to five months prior to the applicable pro forma filings.

Also, given the nature of the group RESP industry, we recommend that all group RESP providers be required to prepare a new prospectus for the same calendar year.

Accordingly, we consider that it would be inappropriate for our members to be required to prepare new prospectus documents based on this revised proposal (revised as we suggest), before the first renewals occurring in the spring and summer of 2014, given that the earliest realistic time frame that this rule could be made effective under applicable rule-making procedures would be some time in the latter half of 2012. Assuming this effective date time period, it would be most impractical, and perhaps impossible, to require our members to start the new prospectus process for the renewals in the spring and summer of 2013. As noted above, our members will require substantial lead-time to prepare the new disclosure documents.

In conclusion, while our comments provided herein suggest improvements that we consider are necessary to the CSA's proposals, the members of RESPDAC remain committed to assisting in developing an improved disclosure regime for group RESPs. We are eager to work with the CSA in bringing this process to a satisfactory conclusion, and hope that you will not hesitate to consult with us as this process progresses. We hope that by our members working together with the CSA, you will gain a better understanding and appreciation of the value of group RESPs, and the satisfaction that hundreds of thousands of Canadian families have enjoyed from providing for their children's higher education through participation in these savings products.

We look forward to hearing back from you at your earliest convenience. Please contact James Deeks, RESPDAC's Executive Director, at 416-689-8421 or jdeeks@primarycounsel.com if you would like to meet with us.

Yours very truly,

Peter Lewis
Chair

James Deeks
Executive Director

Appendix
RESPDAC Comment Letter on the Second Publication Version of the Proposed Scholarship Plan Disclosure Rule
January 24, 2012

This Appendix to RESPDAC's comment letter on the revised proposed scholarship disclosure rule provides RESPDAC's more detailed submissions on the material concerns that our members have with the various provisions of the proposed rule and Form. Our comments are ordered to follow the ordering of the November 25 second publication and request for comments.

COMMENTS ON THE AMENDMENT INSTRUMENT

1. **Proposed section 3A.4** Please see our comment 5 in our letter for our recommended alternative, if the CSA do not permit a "merging" of the "relationship disclosure" information required by NI 31-103 and the Plan Summary. This section should be amended, at a minimum, to permit the Plan Summary to be bound with the "relationship disclosure" at the option of the applicable scholarship plan dealer.

2. **Section 17 of the proposed amendments to Form 41-101F3 regarding transition period.** Please see our comment 10 of our letter (above).

COMMENTS ON THE GENERAL INSTRUCTIONS – FORM 41-101F3

3. **Instructions (9) and (10)** We appreciate that the CSA included these instructions in response to our comment in our June 2010 letter. Notwithstanding this apparent flexibility to modify the mandatory language so as to enable the disclosure to fit the specific group RESP, we still point out in this Appendix where the mandatory language would need to be modified for one or more of our members. For example, we consider that these instructions would allow a group RESP to delete the mandatory language under suitability (Part A, Item 4) which requires a group RESP to direct a reader to an individual or family plan, if the particular group RESP provider did not offer such a self-directed RESP. We are also concerned that the form instructions give the group RESP no ability to ***add*** disclosure that it considers material or ***remove*** disclosure that is not accurate, in order to expand upon or modify in order to give all material facts to a subscriber. For example, one of our members offers an individual RESP that is not "unit-based" and provides a non-discretionary loyalty bonus. Both of these features would need to be included in the Plan Summary and other areas of the prospectus, but the rigid nature of the proposed Forms do not allow for these additions to the disclosure.

4. **Instruction (16) (a)** The CSA use the phrase "investing in **a** scholarship plan" in this instruction. We believe this should be amended to read "investing in **the** scholarship plan, given that the Plan Summary is about a particular group RESP and not group RESPs generically. This comment is related to our comment about the Plan Summary, as drafted by the CSA, having similarities to a "consumer education" document, as opposed to a prospectus document describing **the** specific group RESP.

COMMENTS ON PART A – PLAN SUMMARY

5. **Lack of Cover Page and Back Page** – As discussed further in our comments below, we strongly recommend that the Plan Summary for a group of group RESPs be given a cover page, with a simple description of the booklet's contents, as well as a back page, which can disclose the contact information of the plan provider, as well as provide in larger font, the "cancellation right" information referred to below. An investor needs to better understand what to do with this booklet – and we consider having a cover page and a back page will give the document greater prominence and allow for more intuitive comprehension of the document's importance.

We recommend that a statement similar to the following be included on the cover page (this statement is mandated for certain U.K. "key investor information" documents required by the European Commission for certain European funds).

'This document provides you with key investor information about this fund. It is not marketing material. The information is required by law to help you understand the nature and the risks of investing in this fund. You are advised to read it so you can make an informed decision about whether to invest.

6. **Item 2 - Withdrawal and Cancellation Rights - first mandated sentence** We point out in our comment 5 above the differences between the Fund Facts disclosure of the similar concept to this sentence and the Plan Summary. The current wording suggests that reading the Plan Summary alone will not be sufficient without any further explanation, nor does it explain why the Plan Summary "may not contain all the information" the subscriber needs. This is a very odd concept, given the CSA's objectives of having a shorter document available that a subscriber will be encouraged to read due to its short form, simple language – and to be able to make an informed decision based on reading only this document. We do not understand why this language should be so different from the Fund Facts language, and we are concerned that subscribers will become alarmed at this statement. We also consider that this statement is not helpful since it doesn't tell subscribers that they also ***receive*** the more detailed document along with the Plan Summary, which they also can read at their leisure. We recommend that this sentence be reworded to read:

This summary document contains key information you should know about [insert name of group RESP]. You can find more detailed information in the Plan's prospectus, which is required by law to be given to you along with this Plan Summary. Ask your representative about the Plan's prospectus, contact [name of group RESP provider] at [] or [] or visit [].

7. **Item 2 – Withdrawal and Cancellation Rights - second mandated paragraph.** We continue to consider that it is ***very inappropriate*** for a prospectus disclosure document, such as a plan summary, to essentially tell investors how they can get out of a contract, before the subscriber even knows what that the product is. Why would our members want to encourage subscribers to cancel an agreement before they understand what the contract is? However, our members understand that this 60-day contractual right is very

important to the CSA – indeed our members concur. This right is an important contractual right our members give to subscribers in order to ensure that subscribers have an opportunity to continue to assess their future financial needs. Accordingly, our members recommend that:

(i) The bound Plan Summary should be given a cover page and an end page and this information be provided in bold and larger type face on the back of the bound Plan Summary. This will give the information the prominence the CSA wish and will be in the most logical spot where investors can see it. This is consistent with – and surpasses - most consumer protection legislation that grant cooling-off rights to consumers.

(ii) The mandated language be also provided at the end of each Plan Summary (before the "more information" section). The heading should be "How can I cancel the plan?" This is a much more logical location for this disclosure, as well as giving it suitable prominence and meaning.

8. Item 2 – Withdrawal and Cancellation Rights - second mandated paragraph – We provide comments (see comment 1 above) on the terminology proposed by the CSA, including on the words "contributions" "sales charges" and "grants". We recommend this mandatory language be rephrased as follows (changes are highlighted) – the changes are to use terminology that our members use, and also to highlight that no fees are paid for a cancellation within the first 60 days:

You have up to 60 days after signing your contract to withdraw from the plan. You will get back all of your money ***without deduction of any fees****.* ***Any government incentives paid into your plan will be repaid to the government.***

If you (or we) cancel your plan after 60 days, you'll get back ***the amount you paid into the plan, less fees, including enrolment fees.*** *You will lose the earnings on your money.* ***Any government incentives paid to your plan*** *will be returned to the government.* ***Keep in mind that you pay enrolment fees up front. If you cancel your plan in the first few years, you'll receive back less money than you paid in.*** [Note that we have removed the adjective "much", which we consider unnecessarily inflammatory in a prospectus document. We also simplified the language from that proposed in this last sentence].

9. Item 3 – Description of the Scholarship Plan The required heading of this item should be changed to "What is **the** [insert name of the Plan], rather than the generic explanation "What is **a** [] scholarship plan". This is the first section that a reader will read in the Plan Summary and we consider it vital that a reader be given an explanation of the Plan itself, and understand where he or she fits with that Plan, rather than receiving a generic "consumer education" type of explanation that the subscriber may simply gloss over without reading because they consider it irrelevant to their investment.

Further, we commented in our June 2010 letter that CRA has told our members not to promote the plans as a "registered" education savings plan, without explaining that a subscriber enters into a contract for an education savings plan, which is then registered

once the paperwork is completed. We don't believe the CSA has accounted for this comment. We recommend the following changes to the mandatory language:

The [insert name of the group RESP] *is a group education savings plan that is designed to help you save for a child's education. When you enter into a contract to invest in [insert name of group RESP], we take the necessary steps to set up your contract as a registered education savings plan or RESP. This allows your savings to grow tax-free until the child named in your plan enrols in their studies. The Government of Canada and some provincial governments offer grants and incentives that will give you additional money to invest in your plan. To open an RESP, you need social insurance numbers for yourself and the child you name in your plan as the beneficiary.*

As an investor in the Plan, you are part of a group of investors. Everyone's contributions and government incentives are invested together. When your plan matures, your child, along with the children of the other investors whose plans also are maturing at that time, shares in the earnings on that money. Your share of those earnings, plus your government incentive money and the income earned on that money, is paid to your child as education assistance payments (EAPs).

[the next CSA paragraph is fine, other than to change the word "grants" to "government incentives". We also recommend the word "leave" be changed to the more accurate "cancel" – this word implies (accurately) that there are legal consequences of not continuing – "leaving" suggests a more benign consequence].

If you cancel your plan, your earnings on the money you paid into your plan go to the remaining members of the group. However, if you stay in the plan until it matures, you will share in the earnings of those who left early when your child collects EAPs. [Note that we recommend the word "may" be changed to the more accurate and positive statement "will". There is no circumstance when some would NOT so benefit, so we don't understand why we should not use the word "will". We made this latter comment in our June 2010 comment letter.]

10. Item 4 – Suitability. Our members have three issues with the mandatory wording of this item:

(a) The first sentence should be made specific to the particular plan that the Plan Summary speaks to (and not generic). We recommend this sentence be rephrased as:

Agreeing to contribute to the Plan over time can be a long-term commitment.

(b) The second sentence suggests that a subscriber can be "fairly sure" that his or her newborn baby (for example) will attend a qualifying school and program. Given that this is an obvious impossibility, we recommend that this language be rephrased as follows, which sentence also takes into account the other significant benefits of group RESP (tax and government incentives):

The Plan is for investors who wish to save for their child's post-secondary education on a tax-deferred basis and receive government incentives aimed at achieving this goal. Investors should be fairly sure that:

[insert first 2 bullets of CSA's language].

(c) We recommend the last sentence be modified as follows, which will accommodate those members who do not have a family and/or an individual plan. It also deals with our comment (above) on terminology and fits better with the above discussion.

[insert the following if applicable] You should note that we offer a [describe] Plan that has fewer conditions and may provide you with greater flexibility, although the benefits associated with this Plan are different. See pages [] for details.

11. Item 5 - The Plan's Investments We have two comments on the mandatory wording required under this item:

(a) We consider it important that a potential investor understands that the investments of a group RESP are restricted by securities regulation. We recommend that the words "*As required by securities regulation, the plan invests ….*"

(b) We commented in our June 2010 comment letter, that the sentence "Like other investments, the plan's investments have some risk" may be somewhat accurate, but we believe it is misleading and should be deleted, particularly since we are not permitted to provide any additional explanation. Scholarship plans have far less inherent investment risk than equity based mutual funds, for example, and to suggest that group RESPs are like "other investments" and have risk is misleading without further explanation. The CSA have deleted the reference to "like other investments", which actually, in our view, heightens our concern. If a mutual fund were established with the objectives similar to those of our members' plans, it would likely disclose in the Fund Facts that it has "low" risk (in the required Fund Facts table). Why do group RESPs have to disclose that there will be "some" risk, which leaves this risk completely undefined, whereas mutual funds can indicate that the fund has "low" risk? We recommend this sentence be deleted – the reference that returns will vary from year to year is accurate and will give a subscriber an accurate picture of what to expect.

12. Item 6 - Contributions We have several comments about the mandatory language in this item:

(a) The first sentence should be revised for accuracy to read "*You subscribe for "units" of the Plan when you agree to make your contributions*. *The number of units you subscribe for depends on your contribution schedule and will be clear in your application form and the trade confirmation you will receive*". The CSA wording is inaccurate – a subscriber does not "buy" units, rather he or she

subscribes for units, which are linked to the contribution schedule. Group RESPs are not unitized mutual funds.

(b) We repeat our comment made in our June 2010 comment letter with respect to the proposed mandatory language. The sentence "You can *pay* for *them* all at once, or you can make annual or monthly contributions." should be revised to make clear that deposits made by the subscriber are not *payments for units* that he or she makes monthly, annually or all at once, but rather are *contributions* to an education savings plan. The continual references to "payments" should be changed throughout the documents wherever the term "payment" or "the amount you pay" is used to describe deposits or contributions to the plan. It is also important that a subscriber knows that there are implications of the various contribution schedules and where they can find these contribution schedules. We recommend this sentence be modified to read: *You may make a one-time contribution to your plan, or you can make annual or monthly contributions. Ask your representative about your contribution options and the implications of these various options. The various contribution options available to you are described in the schedules in the plan's prospectus, which accompanies this Plan Summary.*

13. **Item 7 – Payments** The heading of this item should be changed. It is unclear which "payments" are being referred to. We recommend that the heading be phrased "What can I expect to receive?" The instructions should clarify that plans which pay out EAPs at different times (such as for a child's first year of post-secondary education) can modify the language.

14. **Item 8 (1) – Risks** Although we appreciate that the CSA took into account some of the most significant of our June 2010 comments on the first draft of this section, we continue to have comments on this mandatory language (some of which remain from our June 2010 comment letter).

(a) The first sentence states, inaccurately, that "if you do not meet the terms of the plan, you could lose some **or all** of your investment". A subscriber only potentially loses "all" of their investment if they cancel within the first months of opening the account. Accordingly, we recommend this sentence be re-worded to read:

If you do not meet the terms of the plan, you could lose some of your investment, and if you cancel your plan within a short time of setting it up, you could lose it all. Your child may not receive all of their EAPs.

(b) The first paragraph (1) of the mandatory language again uses the too benign term "leave the plan", when it should be: "*You cancel the plan before the maturity date"*. Our members continue to consider that the first two sentences are not appropriate for a disclosure document, which carries liability. These sentences should be deleted. Our members have no qualitative data to support these claims and cannot make these statements as a statement of fact in a prospectus document.

(c) Also in (1) the reference to "or we" in connection with cancelling the plan suggests that our members' have the right to simply "cancel" a plan. This is not correct – the circumstances when our members would terminate (not "cancel") a plan for non-compliance with conditions are described in the following paragraphs. These words must be deleted.

(d) The sentence in (2) "this can be costly" is unnecessarily negative and inflammatory and should be deleted. This statement makes subjective assumptions that may not be justified. This sentence should reflect the fact that our members offer different options for making up missed contribution, i.e. by adding words to the effect that *conditions and fees may apply.*.

(e) The references in (4) to the ability to transfer to another RESP are unclear. Our members are not in the business of promoting other investment opportunities and transferring to another plan may not be the only option. These references should be changed to read "transfer to another type of plan offered by us or take advantage of your other options available through us".

(f) The sentence in (5) "Your child may lose some or all of their EAPs if they take time off from their studies" is not accurate as all group RESPs include a provision to accommodate time off from studies. This line should be deleted.

(g) The sentence in (5) "Deferrals are at our discretion" will be inaccurate for some of our members' plans. Our members must be able to accurately describe the features of the rights of subscribers under the group RESPs.

(h) We recommend that group RESPs be able to include the following statement to ensure that the disclosure is complete and not misleading:

If after you enrol in the plan, you find you cannot meet the terms of the plan, for example, you cannot continue to make the contributions according to your agreed contribution schedule, you can contact [insert name of sponsor and contact details] to discuss what options are available to you to keep your plan in good standing.

15. **Item 8 (2) – Risks** We appreciate that the OSC asked for our further input about how group RESPs should indicate the cancellation experience of plans. The revised proposed CSA disclosure is considerably improved. However, the use of the term "maturity date" is inaccurate – and should be changed to "maturity year" – maturity date implies a single point in time – whereas our members use the term "maturity year". In addition, we had recommended that "transferred" plans [transfers to another plan offered by the plan sponsor] be excluded from this calculation, since the investor still has an RESP in good standing and still has the option to transfer back to the group plan prior to maturity.

16. **Item 9 – Costs** We continue to have comments on the mandatory disclosure, notwithstanding the changes made by the CSA.

(a) The first sentence should be rephrased to read more plainly and simply:

There are costs to enrol in the plan, as well as on-going costs during the life of your plan. The following tables describe these costs.

(b) The tables should show who the fees are paid to – this is consistent with mutual fund prospectus disclosure and will give subscribers an accurate picture of why they are paying fees and to whom.

(c) Our members wish to use the term "enrolment fee" or "membership fee" rather than "sales charge". These terms, in our view, are accurate and certainly are understandable. The fact that some of these fees go to pay for sales commissions for the dealing representatives will be clear in the "what the fee is for" explanation. This disclosure will clearly outline that certain of this fee is retained by the dealer firm as payment for distribution.

(d) The mandatory proposed explanation of "sales charges" is inaccurate and misleading. It is misleading because it fails to acknowledge the enrolment fee refund mechanism that all of our members have in place. We recommend the following sentence in substitution for the first bullet (we accept the second bullet), although our members will modify the description of the enrolment fee refund to reflect their own operations of such refund mechanisms.

This is a sales fee you pay, in part, to compensate your representative, as well as [insert name of dealer] for selling you your plan. This fee is paid to cover the costs of marketing and distributing the plan, and a portion will be paid to your sales representative as a sales commission, with the remainder being paid to the dealer firm. You may receive additional amounts as a refund of this enrolment fee upon the maturity of your plan and as your child collects his or her EAPs.

(e) The reference to "processing fee" is inaccurate and implies that there is a charge for processing a single transaction, when in fact, it is the fee for the ongoing maintenance of an account. This should be changed to allow the plan sponsors to use their particular wording, such as "account maintenance fee", so long as they accurately describe what the fee is for. We recommend the following explanation about this fee - "*This is to cover administrator's expenses incurred in connection with the on-going administration of your contributions and plan.*

(f) We do not understand why our members cannot disclose "optional" insurance premiums. This is essential, in our view, in order to provide full, true and plain disclosure of all material facts.

17. Item 10 – Guarantees – We have four significant comments on this mandatory disclosure and recommend the mandatory disclosure be modified to read more accurately using more neutral language as we suggest below.

(a) The references to "unlike bank accounts or GICs" should be deleted. Although this may be accurate, we do not understand why group RESPs should have to make this statement, when mutual funds do not. This is an additional extraneous

reference that is not relevant to the investment product distributed by our members and accordingly has no part in a prospectus document.

(b) The first sentence - *We cannot tell you in advance if your child will qualify for payments* – implies that our members have an onus on ensuring that the child will be eligible, when a more accurate statement is that the child simply must qualify to receive EAPs.

(c) The disclosure must be modified to refer to the fact that a subscriber will receive his or her contributions back – to leave this statement out would be very misleading and give an inaccurate impression of the plan. We also point out that government incentives are known and will also be paid.

(d) The point of this disclosure is to point out (like mutual funds) no-one has guaranteed [legally speaking] these payments.

Accordingly our suggested language is:

Your child must meet the conditions of the plan, including enrolling in a qualifying school and program, in order to receive EAPs. The amount of any EAPs will depend on many factors and we cannot tell you how much your child will receive. You will receive your contributions back (less applicable fees) at maturity or cancellation of your plan and your government incentives will also be paid to you or your child as the EAPs are collected. We cannot tell you that any payments made to you or your child will cover the full cost of post-secondary education.

We manage the plan according to prudent fiduciary principles in order that the plan can make the payments to you and your child that are described in this Plan Summary and the prospectus, however we do not guarantee these payments.

Investments in the Plan are not covered by the Canada Deposit Insurance Corporation or any other government insurer.

18. **Item 11 – For More Information.** We recommend that this section include a specific reference to the "other" prospectus document for reference purposes – i.e. the investor will receive this other document, which he or she can use if they want more information. Otherwise the two documents will not be linked together and the investor won't know what to do with either document.

COMMENTS ON PART B

19. **General comment –** We urge the CSA to carefully consider the flow of this Part to ensure logical disclosure. We would be pleased to meet with the CSA to discuss this comment. We also urge the CSA to carefully re-examine instructions to disclose headings, sub-headings, sub-sub-headings – are all these headings really necessary? Given the short one-sentence disclosure that is required for many of the mandatory items – we think this document will look particularly awkward and choppy. A good example

of what we consider a multiplicity of headings, sub-headings and sub-sub-headings can be found in Item 11.

20. **Missing items –** We consider that disclosure about the following items would fit well in the Part B section and is necessary in order to meet disclosure standards:

- Insurance coverage (some of our members may provide this information in a separate document because of specific provincial insurance laws, for example in Quebec).
- How a subscriber can make additional contributions and subscribe for additional units, although some of our members may wish to include this concept in Part C.
- ITA restrictions on the EAP amounts that can be paid out. We know that CRA requires this disclosure.
- Enrolment fee refund mechanism – if this mechanism is different for each plan – this would be provided for in each Part C sections.
- Ability to transfer between plans

21. **Item 1 Cover Page** - Please see our earlier comments about the interrelationship between the Plan Summary and this "prospectus". A reader should be told the relationship between these documents and we recommend the following sentence be included on the cover page of the "prospectus". As it stands, it is very confusing as to the status of the documents and why they are separately bound.

This document, together with the separately bound Plan Summary document you will have received along with this document, is the prospectus for the [insert names of the Plans] that is required by law. The Plan Summary gives you key information about the [insert names of the Plans] and this document provides more detailed information. You must receive both documents within specified time periods when you enrol in the Plans.

22. **Item 2.2** We have the following comments:

(a) The mandated title seems rather colloquial and somewhat unconnected to the rest of the disclosure that must be included under it. We recommend the following heading, which is equally direct as the CSA's heading: ***You must provide a social insurance number for yourself and your beneficiary.***

(b) The mandated disclosure should acknowledge that a subscriber must have a SIN in order to even enter into a contract. **None of our members will enter into a contract with a subscriber without a SIN.** The mandatory disclosure suggests otherwise. We made this comment in our June 2010 comment letter, but it appears to have been misunderstood.

(c) The mandated disclosure should also acknowledge that our members treat the unregistered education savings plan generally in the same way as the other RESPs. Contributions are generally invested and earn income. The proposed language suggests that all our members do is park the money in an account and deduct fees, which is not accurate. There are also tax implications to the subscriber related to the income earned in the unregistered plans. Our members should be permitted to provide accurate disclosure tailored to their specific plans.

(d) We have the same comment about the reference to a subscriber receiving "much" less than they put in as we did regarding the similar statement in the Plan Summary.

23. **Item 2.3 – Payments not Guaranteed** The disclosure under this item should be changed as we recommended above for the similar disclosure in the Plan Summary. In addition:

(a) (3) Further explanation is necessary for discretionary payments (since these have not been mentioned previously). We recommend that group RESPs be permitted to say ***Any discretionary payments described in this prospectus are not guaranteed.***

(b) (4) We have the same comments on this language as for the similar language in the Plan Summary. In addition, we don't understand why the prospectus would urge the investor to read *the Plan Summary* and prospectus risk disclosure only. Shouldn't an investor read the entire prospectus? Given that this warning is to understand the risk – then we recommend that the reader be directed to the portions of the prospectus that deal with risks. The Plan Summary is not a consumer warning document nor does it deal only with risks.

24. **Item 2.4 – Withdrawal and Cancellation Rights –** please see our comments on the same language in the Plan Summary.

25. **Item 4.1 – Introduction and Documents Incorporated by Reference –** We note that this mandatory disclosure does not include the additional information we recommended be included in plan prospectuses as a condition to the OSC's decision document dated June 2, 2011.

We also point out that this disclosure does not clearly deal with the status of the Plan Summary.

26. **Item 4.2 – Terms used in the Prospectus** While we do not disagree with the concept of having a list of standardized defined terms, we have three central comments on Item 4.2:

(a) We consider that the Form is too prescriptive in mandating that all group RESP organizations use exactly the same term and define it using the identical words. We are concerned that, by so specifically mandating terms, we will lose the flexibility to change our terminology as circumstances or government regulation changes.

(b) Further the prescribed definitions for certain terms are not accurate, not permitted by CRA, or include extraneous information that is superfluous and/or subjective and not necessary for an accurate definition of the term. **Some of our issues with the mandated language are described below; we would like to discuss with you specific issues our members have with the glossary to ensure accuracy.**

(i) The prescribed definition of "contributions" does not accurately reflect the definition in the Income Tax Act (Canada) and our members would like the flexibility to use more accurate language to define the term. Furthermore, given that the definition of "contribution" includes the concept that fees are deducted from "contributions" [and inherently internally confusing definition], we propose that the word "principal" also be defined as meaning "contributions less fees".

(ii) The definition of "accumulated income payment" does not accurately reflect the definition in the Income Tax Act (Canada)

(c) **We also are very concerned about Instruction (1), which forbids a plan from defining other terms.** This does not appear to be useful or necessary, particularly since the prospectus is a "liability" document and is intended as a resource document for investors. Without this flexibility, the prospectus would become unwieldy with numerous cross references and/or lengthy explanations of terminology.

27. **Item 5.2 – Description of Scholarship Plans** – The mandated disclosure should also permit group RESPs to disclose that under certain conditions, the enrolment fees payable at the opening of the account by the subscriber will be returned at maturity. This is a material accurate fact and a significant benefit for subscribers.

28. **Item 6.9 – Payments from the Scholarship Plan –** The mandated disclosure should permit group RESPs to disclose the benefits of group RESPs – namely the attrition aspect of plans, as well as the possibility of receiving discretionary top-up payments. These are material accurate facts.

29. **Item 9.1 – Investment Restrictions** We find this disclosure item to be odd in the context of group RESPs. Because of the reference in (2) to restrictions beyond what is required by securities regulation, most group RESPs will have very little to disclose here – and the most fundamental point is missing – i.e. that securities regulation greatly restricts the investments that can be made by group RESPs. We consider that this fact is not well understood by our subscribers, and we consider this to be a material fact for the prospectus.

30. **Item 12.1 (2) (h)** The disclosure item is inaccurate as it relates to the functions of an independent review committee under NI 81-107. We consider a more simple way of stating this item would be to say "the oversight provided by the independent review committee of conflicts of interest". An IRC does not have a "municipal address" as required by (3) and (3) should be modified to reflect this.

31. **Item 13.1 – Statement of Rights** The first sentence of the mandated language is awkward [particularly the reference to 'scholarship plan securities" – which is inconsistent with the rest of the document] and at odds with the way this right is described in the Plan Summary. We recommend this sentence read:

You have up to 60 days after signing your contract to withdraw from the plan. You will get back all of your money without deduction of any fees. Any government incentives paid into your plan will be repaid to the government as required by law.

COMMENTS ON PART C: PLAN SPECIFIC INFORMATION

32. **General comment on "flow" of the document** We consider that Part C does not presently follow a logical flow over the life-cycle of a typical plan and subscription. We recommend that the flow of Part C be chronological and consistent with the "life cycle" of the plan. We think this is most intuitive and easiest to understand for a prospective subscriber, rather than starting with a description of beneficiary groups, then discussing investments and risks, and then back to contributions. Accordingly, our preferred order for Part C would be:

Item 1 - General
Item 2 - Introductory disclosure
Item 3 - Plan description
Item 4 - Eligibility and Suitability
Item 5 - Beneficiary Group
Item 6 - Contributions
Item 7 – Changing Contribution Schedules [*this is an additional section which is presently missing and which would describe such matters as additional units and changing the contribution frequency]*
Item 8 - Withdrawing contributions
Item 9 - Making Changes to a Subscriber's plan
Item 10 - Transfer of Plan
Item 11 - Default, Withdrawal or Cancellation
Item 12 - Eligible Studies
Item 13 - Plan Maturity
Item 14 - Payments from the Plan
Item 15 - Accumulated Income Payments
Item 16 - Discretionary Payments to Beneficiaries
Item 17 - Attrition
Item 18 - Fees and Expenses
Item 19 - Investment Objectives
Item 20 - Inv. Strategies
Item 21 - Inv. Restrictions
Item 22 - Plan Specific Risks
Item 23 - Annual returns
Item 24 - Other material information

33. **Item 3.1 – Plan Description -** It continues to be unclear what our members would include as "the legal nature of the securities". Scholarship plans are considered to be issuers of securities because a subscriber enters into an investment contract. Would this disclosure suffice?

34. **Item 5.1 – Beneficiary Group –** We continue to consider that the suggested table is irrelevant and useless. The age/year can be calculated easily without referring to a table that will be just two columns of corresponding years from 0 to 15, which will take up space. This table will be very confusing to a potential subscriber, given that the beneficiary is assigned to a specific group based on the subscriber's selected contribution schedule and other details selected by the subscriber at the time of enrolment. The table is also not linked to anything else in the prospectus – that is, a subscriber will not understand why this table is being provided or what they can do with this information. This table only adds to the weight of the prospectus document, contrary to our collective wish to simplify the disclosure.

We also point out that subscribers are permitted to change their beneficiary groups at or after enrolment. This should be discussed if this table is retained.

35. **Item 6.3 (3) –** The first sentence in the mandatory language should be deleted. No investor will ever be able to know what program their child "may be interested" at time of enrolment. This disclosure should be restricted to discussing whether or not the specific plan permits less or more eligible schools/programs than the ITA or other plans offered by the plan sponsor.

36. **Item 10.1 – Plan Risks –**Our earlier comments on similar Plan Summary disclosure apply to this mandatory disclosure.

37. **Item 11.1 Annual Returns –** We consider that better disclosure of annual returns, given the long-term nature of our plans and an investment in our plans, would be what our members presently include in their MRFPs – namely the 1, 3, 5 and 10 year returns in addition to the most recent annual returns for the last 5 years.

38. **Item 12.1 – Making Contributions** The mandatory disclosure refers to "buying units" – please see our earlier comment on this reference.

39. **Item 12.2 – Missing Contributions –** We do not understand what the CSA intend in instruction (2). This is not a rate that our members calculate at present and we are not confident we understand what the CSA wish to be disclosed here (and why this information is important).

40. **Item 13.1 (3) – Withdrawing Contributions –** The disclosure item requires disclosure of the "losses" that may be incurred by a subscriber. We assume that this disclosure can be generalized and not specific, since it is not possible to articulate with any degree of specificity "losses" or "fees" given that these will be different for each subscriber and will depend on a number of factors.

41. **Item 14.2 – Fees Payable by Subscriber from Contributions** – The mandatory language under (2) should permit the plans to use terminology that describes these fees – namely enrolment fee or membership fee. We are uncertain whether this disclosure will fit in a "side-bar" – can our members disclose this in a boxed text after the table? A reference to the possibility of enrolment fee refund should be permitted here (with a cross-reference to the most complete disclosure provided in response to Item 14.6).

42. **Item 14.5 – Fees for Additional Services** Our members consider the fees payable in respect of optional insurance to be a material fact that must be disclosed in the prospectus.

43. **Item 19.2 - Payments to Beneficiaries** Our members have different methodologies for calculating payments of EAPs. Our members question their ability to simply disclose the information proposed under item 19.2(2) (c). Our members may feel obliged to disclose their actuarial methodology that they use to calculate EAPs, and do not consider that this information would be helpful or comprehensible by investors.

44. **Item 19.3 (3) Amount of EAPs** Our members consider that they can disclose the information required under paragraph (a) and (e). However, certain of our members do not today, calculate the information required under paragraphs (b), (c) and (d). These members expect that the necessary systems changes to be able to supply this information greatly surpass the benefits inherent in their subscribers having access to this information. This information is far too detailed and dense to allow for a greater understanding of the group RESP.

45. **Item 19.4 – Payments from the EAP Account** We suggest a more plain language reference would be throughout to discuss EAP Payments (not payments out of an "account"). It will not be clear what an EAP account is, since this concept is first introduced in this disclosure item and there is no defined term of this nature in the Glossary.

    We point out a typographical error in the first table under Past Breakdown of income in the EAP Account. Total EAP account (bottom left row) should be Total EAP Amount.

    Some of our members report that they cannot supply the information proposed under the first table of this item, given that they do not calculate this information presently. Our members consider that they will need expert actuarial assistance to calculate this information, and even if they could do this, the numbers would not be precise and it is probable that they could not do this by beneficiary group. To do this, would require major systems developments, which will require significant investments in time and money.

    Some of our members also cannot provide the information proposed under the second table of this item, because not only do they not calculate this information presently, but their plans are not operated in the ways suggested by these tables.

46. **Item 22.2 Pre-Maturity Attrition** Some of our members do not presently calculate the information required by these tables, and to do so would require significant investments

in major systems developments. We urge the CSA to reconsider the utility of these tables. What is a subscriber to do with all this detailed information?

47. **Items 19-22 (tables)** We would welcome the opportunity to discuss with the CSA the various tables proposed in these items and point out the overall complexity introduced with these tables, coupled with the difficulties in our members even calculating the information proposed, with a view to determining whether there would be a more simple method of providing the intended information in ways that will make sense and be comprehensible for the average investor. As we noted in our June 2010 comment letter, some of these tables, even for those of our members who are immersed in the intricacies of group RESP operations and finances, are very difficult to read and understand the message underlying the tables. As noted above, some of our members don't calculate this information at present, which means that any new requirement must be seen to have a positive benefit to subscribers that will outweigh the costs to our members of the necessary systems changes. Even if we agree that some of this information may be useful to some subscribers, we feel that their collective inclusion into the prospectus, unnecessarily complicates an already semi-complex document, such that the tables etc. will have the real danger of making the entire document, in our view, overly daunting to a reader. Therefore the real chances of this document being read will be lessened.

We recommend, as we did in our June 2010 comment letter, that we work with the CSA to determine whether any of the information, we collectively agree as having potential significance to an investor at account opening, be included in the financial statements and MRFPs required to be prepared by each plan pursuant to NI 81-106 and thereby being available for review.

COMMENTS ON PART D: INFORMATION ABOUT THE ORGANIZATION

48. How will Part D be transitioned from the various Part C's to this Part D? Should this disclosure start on a new page and be clearly entitled Information about the Management and Organization of the [insert name of group RESPs]? The form contains no instructions in this regard.

49. **Item 1.1 (2)** We don't understand the reference to "shareholders" of the "scholarship plan". We point out, that like mutual funds, group RESPs (the plans themselves) do not have "directors, officers, partners or shareholders". They do have a trustee and this will be disclosed. This item should be revised to reflect the true nature of the required disclosure.

50. **Item 2.1 (2)** We do not consider that our members would have anything particularly to disclose in response to the part of this item that requires disclosure of "any unique overall investment strategy or approach used by the IFM in connection with the plans". What does this mean?

51. **Item 2.8** This item has been taken from the mutual fund requirements and they do not fit within the context of group RESPs that are distributed through ONE affiliated dealer, **where the payment of marketing and distribution costs are paid out of the**

enrolment fee payable by the subscribers. There may be some residual amounts paid out the management and administration fees, but these are only very minor and do not justify the calculation contemplated by subsection (2). As we noted in June 2010, it is not possible to simply transpose mutual fund requirements on the different structures of group RESPs.

Our members have no objection disclosing what incentives [in the nature of contests, incentives, trips and the like] the applicable affiliated dealers provide to their sales representatives. We assume that this is what is expected to be disclosed under item 2.8(1)(b), given that this requirement is taken from NI 81-105. We would like confirmation that we can interpret this section as mutual funds interpret similar requirements in NI 81-101 and NI 81-105, given that NI 81-105 does not apply to the distribution of group RESPs (which is consistent with the fact that the same conflicts of interest inherent in distribution of mutual funds by independent dealers do not apply to the distribution of group RESPs).

52. **Item 9** We wonder whether the certificates need to refer to the Plan Summary. Please see our earlier comments about clarifying the contents of the "prospectus".