

April 22, 2020

Mr. Grant Vingoe
Acting Chair, Ontario Securities Commission
Suite 2000, 20 Queen Street West
Toronto ON M5H 3S8

Sent via email to : gvingoe@osc.gov.on.ca

Dear Mr. Vingoe:

Re: Open Letter - Covid-19 Relief for Vulnerable Retail Investors Invested in Group Plan RESPs

In the interests of Canadians who are subscribers in group plan RESPs, we are requesting that the Ontario Securities Commission (OSC) and Canadian Securities Administrators (CSA) implement urgent measures to protect the vulnerable, low income and low literacy subscribers who own these complex financial products.

Group scholarship plan promoters are OSC and CSA registrants registered as scholarship plan dealers and investment fund managers. Our specific recommendations for urgent Covid-19 impact relief are set forth below.

1. Specific Recommendations

- 1.1. We recommend that the OSC and CSA can take the following three steps to assist the most vulnerable Canadian investors who own, or could be sold, group plan RESP products:
 - a. **Moratorium on Default and Cancellation Terms** - Moratorium on plan cancellations caused by default, permitting instead conversion of group plan accounts to individual plans, at no charge and subject to no forfeiture of any fees or funds, or a penalty-free suspension of contributions, at no charge and subject to no penalties or funds forfeiture, retroactive to March 1, 2020, in circumstances where default or cancellation under plan terms would otherwise occur.
 - b. **Moratorium on Penalties and Forfeitures** – Moratorium on all penalties and forfeitures of any fees, account funds and other charges, triggered by missed contributions,

account default, commitment reduction and plan type change, retroactive to March 1, 2020.

- c. **Suitability** – Issue group plan RESP industry guidance regarding the impact of Covid-19 on conducting suitability assessments with respect to new plan sales and new unit sales that considers the current environment and the environment's impact on affordability, sustainability, education plans and other factors. For example, the current economic and employment environment is pushing low income Canadians into greater reliance on transitory government income assistance, highly variable income and expenses, uncertain medium-term employment and financial circumstances, and greater uncertainty with respect to post-secondary education.

2. **Background**

- 2.1. Currently, Canadians are weathering severe personal, professional and financial shocks in this unprecedented shutdown of the national and international economy. Canadians are facing a stock market meltdown, unemployment, fear of unemployment, difficulty paying their mortgages, their rent and day to day bills, difficulty supporting families and generally making ends meet.
- 2.2. RESPs are approximately a \$50 billion market. Contributions top \$4 billion per year. They are offered by approximately 90 organizations, a handful of which are known as “group plan promoters”. Group plan promoters focus only on proprietary RESPs and represent approximately one-fifth of a roughly \$50 billion market.¹

3. **Complexity and Investor Impact of Group RESP Plans**

- 3.1. Group plan RESPs are “complex financial products”, sometimes characterized as hybrid financial vehicles because of the uniqueness of the product structure, which includes unusual corporate structuring, tax sheltering, multi-year fixed contribution schedules that require ongoing consumer compliance, and pooled payouts based on attrition. As described by Debra Foubert, Director of Compliance and Registrant Regulation, OSC, group plan RESPs are “complex, they have a long investment time horizon, which is typically 18 years, and they are aggressively sold to vulnerable investors who probably have little understanding of investments.”²
- 3.2. The promoters are not subject to the oversight of any SRO. They generally require forfeiture of varying combinations of investment earnings, sales charges, other fees

¹ http://seedwinnipeg.ca/files/The_Regulation_of_Group_Plan_RESPs_and_the_Experiences_of_Low-income_Subscribers.pdf.

² <https://www.thestar.com/news/investigations/2018/07/31/they-thought-they-were-saving-for-their-kids-education-but-were-shocked-to-learn-their-money-was-gone.html>.

and funds, in the event of cancellation, default or plan type conversion to switch to a more suitable or affordable plan. (See, for example, “Default, Withdrawal or Cancellation” in the Children’s Education Funds Inc. prospectus.)

- 3.3. Interest is another charge, which in some cases can operate to wipe out a subscriber’s account completely if the customer needs to suspend contributions or their account goes into default. Forfeitures can occur in further circumstances, including failure to enrol in an educational program that qualifies under the plan (pursuant to terms that are narrower than the Canadian government’s characterization of qualifying educational programs for RESPs).

4. **Vulnerable Investor Client Base**

- 4.1. Vulnerable retail investors are disproportionately represented in the customer base of group plan promoters. They are urged to subscribe in order to take advantage of government grants. Group plan RESPs are often poorly understood even by financial services industry professionals let alone low-income Canadians whose only financial investment, in many cases, is their group plan RESP.

As the OSC and CSA announce and consider support for the financial services industry in relation to the impact of Covid-19, we ask that the OSC and CSA also urgently consider relief needs for subscribers in group scholarship plan dealer products. We encourage the securities regulators to exercise their investor protection mandate by turning their attention to the most vulnerable Canadians. We urge the regulators to provide vulnerable consumers, who are invested in the some of the most complex and punitive products, the same level of prioritization as is being afforded to public companies and registrants because of the Covid-19 economic crisis.

We thank you for the opportunity to provide our comments and views in this submission and we would be pleased to discuss this letter with you at your convenience.

Sincerely,



Ermanno Pascutto, Executive Director
FAIR Canada

Cc: Canadian Securities Administrators c/o
M^e Philippe Lebel