

## Local Policy 3.22

### Registration Requirements concerning Application Forms to Establish a Self-Directed RESP

Dated March 4, 1999

In light of recent inquiries, the Commission wishes to clarify its view on the treatment of applications to set up a self-directed registered education savings plan ("Self-Directed RESP") in light of Local Policy 3.06 and Commission Order No. 280/90

*The Securities Act* (the "Act") includes in the definition of security "any document constituting evidence of an interest in a scholarship or education plan or trust". An interest in a registered education savings plan is a security and such securities would be subject to the prospectus and registration requirements of the Act. The *Income Tax Act* (Canada) requires that interests in an RESP be qualified by a prospectus.

In 1990, amendments came into effect to the *Income Tax Act* (Canada) which permitted the creation of an RESP where, instead of pooling contributions, individual accounts could be established as a Self-Directed RESP into which contributions would be made which could be used to purchase, at the direction of the subscriber, investments which may be permitted under applicable law. In response to these amendments the Commission issued Order No. 280/90 which exempted trades in a Self-Directed RESP from the prospectus requirements of the Act on certain conditions. Registration was still required with respect to trades in a Self-Directed RESP.

Local Policy 3.06 limits the types of securities that a restricted registrant can trade.

The Commission does not view the application form to set up a Self-Directed RESP as a security for the purposes of Local Policy 3.06. However, the activities involved in accepting an application for a Self-Directed RESP and the actual trades of securities in and out of the Self-Directed RESP account are acts in furtherance of a trade or trades for which registration is required under the Act. As such, while a restricted registrant will not need to amend its registration to accept applications, the actual securities traded under the Self-Directed RESP will be limited to those securities permitted to be traded by the registrant.

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