



PAUL C. BOURQUE, Q.C. / c.r.  
President and CEO *Président et chef de la direction*  
pbourque@ific.ca 416 309 2300

January 5, 2018

Delivered By Email

Honourable Navdeep Bains  
Minister of Innovation, Science and  
Economic Development  
[ised.minister-ministre.isde@canada.ca](mailto:ised.minister-ministre.isde@canada.ca)

Honourable Bill Morneau  
Minister of Finance  
[bill.morneau@canada.ca](mailto:bill.morneau@canada.ca)

Honourable Kent Hehr  
Minister of Sport and Persons with  
Disabilities  
[hon.kent.hehr@canada.ca](mailto:hon.kent.hehr@canada.ca)

Dear Minister:

**RE: Registered Disability Savings Plans**

We are writing on behalf of the members of the Investment Funds Institute of Canada to request an amendment to paragraph 67(1)(b.3) of the *Bankruptcy and Insolvency Act (Canada)* that will remedy a legislative inequity that affects people with disabilities. The amendment will provide beneficiaries of “registered disability savings plans” (“RDSPs”) with the same creditor protection provided to annuitants of “registered retirement savings plans” and “registered retirement income funds” (each as defined in the *Income Tax Canada* (“ITA”).

**How the RDSP Program Works**

An RDSP is a long-term savings plan to help Canadians with disabilities and their families save for the future. The beneficiary of an RDSP must be an individual with a severe and prolonged impairment in physical or mental functions who is eligible for the disability tax credit. For a beneficiary to be eligible, a medical professional must assess their disability.

The intent of the RDSP program is to provide a stable income stream to people with disabilities to help pay for their basic needs, which often include considerable equipment and attendant care costs. Through an RDSP, parents are able to ensure that financially dependent adult children with disabilities will continue to receive financial support when parents are no longer able to assist. In other cases, the income from an RDSP helps individuals with significant physical disabilities to live independently. The Government of Canada makes matching Canada Disability Saving Grants and/or Canada Disability Savings Bonds within certain limitations.

**Why RDSP Beneficiaries are Vulnerable to Creditors**

The *Canada Disability Savings Regulations* provide creditor protection for government contributions to an RDSP. However, there is no creditor protection for contributions made by

family members or the income derived from those contributions. Currently, a bankruptcy trustee can seize these non-government assets from an RDSP if the beneficiary declares bankruptcy.

### Our Proposed Solution

The government created RDSPs to provide financial stability for disabled persons. However, the current law permits an outcome that can deprive them of that security. In our members' experience, this policy also discourages parents from establishing RDSPs. These consequences appear to us to be unintended and contrary to the policy objective for RDSPs. We are requesting protection for RDSP beneficiaries that already exists for other registered plans. Government legislation provides annuitants of registered retirement savings plans and registered retirement income funds with creditor protection.

We propose an amendment to paragraph 67(1)(b.3) of the *Bankruptcy and Insolvency Act* (Canada) to refer also to property in an RDSP.

We would be pleased to discuss this submission with you or your officials. If you have any questions or comments, please contact James Carman ([jcarman@ifc.ca](mailto:jcarman@ifc.ca)) or by phone at 416-309-2323.

\* \* \* \* \*

Yours sincerely,

THE INVESTMENT FUNDS INSTITUTE OF CANADA

A handwritten signature in black ink, appearing to read "Paul C. Bourque", with a long horizontal line extending to the right from the end of the signature.

By: Paul C. Bourque, Q.C.  
President and CEO