The Honourable James Rajotte November 6, 2009
Chair, House of Commons Standing Committee on Finance
Wellington Street
Ottawa, Ontario
K1A 0A6

Dear Mr. Rajotte:

The purpose of this letter is to update you on a number of advocacy issues the **Investment Counsel Association of Canada (ICAC)** has been working on which impact Canadians' retirement savings. We applaud the work you and your House of Commons Standing Committee on Finance has been doing to address the economic downturn and submit this letter for consideration as your committee considers strategies to address the retirement savings crisis in Canada and prepares the 2010 budget. As an association whose members manage retirement savings of Canadians, we share the concerns of the Federal government that Canadians' pensions and retirement savings require significant growth to ensure adequate capital is in place for their retirement years and are looking towards solutions that support this important objective.

It should be noted that many of items included in this letter have been part of past pre-budget submissions with the exception of the GST issue which is new and critical. We would like to highlight 4 key issues of concern that, if addressed in your expected December retirement savings legislation or 2010 budget, could improve Canadians' ability to grow their retirement savings, diversify their investments and ensure that retirement savings are not subjected to unfair or unintended tax treatment.

By way of background and to provide context to these recommendations, the ICAC represents investment management firms from across Canada. We invest the assets of individual Canadians who are saving for retirement and we invest the assets of both traditional defined benefit pension plans and pooled funds set up for the purpose of providing defined contribution pension plans. Many of Canada's largest pension plans (eg. CPPIB, OMERS, Teachers) and small employer pension plans hire our members to manage all or portions of their investment portfolios. Our membership comprises over 125 companies, representing every province and territory in Canada. The total assets managed by our members is over $700B.

Each of the four issues below, if not addressed, will negatively impact retirement savings. A brief summary of each issue is provided, with details provided in the attached appendix.

1. GST On Investment Management Fees & Impact of Additional HST If GST Issue Not Addressed.

Up until April 2009, investment management fees were subject to GST. This situation struck us as inconsistent with sections of the *Excise Tax Act* which exempt some but not all financial services (eg. brokerage commissions, GICs) from GST. In April, the Federal Court of Appeal upheld a decision of the Tax Court of Canada in *Queen v The Canadian Medical Protective Association* ("CMPA") that discretionary investment management services are a "financial service" and should be exempt from GST. We have received verbal communication from the Department of Finance that they disagree with the Court's decision and have advised our members to continue to charge individual Canadians and their pension plans GST.

As you are aware, many provinces are considering harmonizing their provincial sales tax with the GST. If this occurs, and the Federal government amends the *Excise Tax Act* accordingly, Canadians will be subject to an additional 7-8% tax on their investment management fees, depending on their province of residence. In other words, the total combined tax on investment management fees will be between 12% and 15%. Not only is this going to negatively impact Canadians' retirement savings but the unlevel playing field with other GST-exempt financial services may result in a withdrawal of capital from the public equity and debt markets into investments that receive more favourable tax treatment (eg. GICs) any such movement may not be in Canadians' long term best interests.

We are recommending that the Federal Government support the CMPA decision that concluded that discretionary investment management fees should be exempt from GST like certain other financial services; secondly if this position is not taken that some form of exemption from HST be agreed to with the provinces.

2. Taxation Impact on Pensions & RRSPs due to 150 Unit Holder Rule to Qualify for Mutual Fund Trust Status

Some individual Canadians and pension plans invest part of their investments with investment counsellors who offer "pooled funds" that are very similar to mutual funds but are offered pursuant to exemptions from the prospectus requirements under provincial securities legislation. The *Income Tax Act (ITA)* was revised in the 1990s to attempt to provide similar tax treatment to pooled funds and mutual funds, as long as the pooled fund has at least "150 unit holders". Currently, if a pooled fund has more than 150 unit holders, it qualifies for treatment as a "mutual fund trust" and is subject to beneficial tax treatment. However, if a fund drops below 150 unit holders, the entire fund including any RRSPs and pensions may be subject to a variety of different tax treatments. As a result, Canadians who believe that investments held in their RRSP are tax-exempt are actually subject to tax at the fund level, simply because the fund has dropped below a certain size. Since our members are not in a position to control the number of unit holders in a fund, we feel that this is an unfair and an unintended tax consequence on retirement savings that should be corrected.

We are recommending that the rule to qualify for "mutual fund trust" status be modified to 50 unit holders, and that if one or more of a fund's unit holders is a pension plan each participant in the pension plan should count as an investor in the fund.

3. Expansion of Designated Stock Exchange List to Allow Canadians to Diversify Their RRSP Investments

Investments that are not on the **Designated Stock Exchange** list outlined in the *ITA*, are not qualified investments for RRSPs and other tax-deferred plans. Although the removal of the foreign content limits was a very positive decision for Canadians allowing them to better diversify their savings, the Designated Stock Exchange list prevents Canadians from better diversifying their retirement savings beyond the Designated Stock Exchange List. Given the economic downturn during the last year, diversification of capital is even more critical. The current list of approximately 38 exchanges primarily consists of exchanges in North America (40%) and Europe (40%). Accordingly, Canadians are effectively prohibited from investing their retirement savings in companies listed on many respected, well regulated and established exchanges in other parts of the world.

We are recommending the current list of designated stock exchanges be expanded and updated to allow Canadians to adequately diversify their savings in different economies around the world.

4. Former Bill C10 – Ensuring Changes to Non Resident Trust Rules Do Not Result in Taxation of Pension Plans or RRSPs

In 2007, former Bill C10 was passed in the House of Commons and was subsequently blocked by the Senate Committee on Banking Trade and Commerce. This Bill contained a number of unfair changes to the Non-Resident Trust rules which had they passed, would have had the impact of taxing pension plans and pooled funds with RRSP holders, who invested outside of Canada in any vehicle considered to be a "trust" under the *Income Tax Act* rules.

Although the Department of Finance in April 2008 issued a comfort letter to clarify that certain pensions would be exempt from the rules, the Bill has not been reintroduced into the House and there remains some uncertainly in terms of the tax treatment of Canadians investing internationally.

We are recommending that when the Bill is reintroduced in the House, the wording be drafted as broadly as possible to ensure all Canadians' retirement savings, whether in an RRSP, defined contribution pension plan or a defined benefit pension plan, be exempt from tax.

We would be happy to meet in person and further discuss any of these recommendations.

Sincerely,

Katie Walmsley, President
Investment Counsel Association of Canada

<u>Appendix 1</u>
<u>Summary of ICAC Recommendations to Improve the Tax Treatment of Retirement Savings</u>

<u>Issue 1 – GST on Investment Management Fees & Impact of Additional HST If GST Issue Not Addressed</u>

Since the inception of GST, investment management fees have been subject to GST. The Excise Tax Act however, specifically exempts a number of financial services. There is a need to level the playing field among competing financial services, preferably by exempting them all from GST/HST but, at the very least, by ensuring they are all treated the same under the tax system. If an exemption was provided, investment management fees would not be subject to GST and pension and retirement savings would benefit from the additional capital reinvested in the plans.

<u>Issue Background – GST/HST</u>

The turmoil in the financial sector during the past 18 months has been a grave concern for our members and their clients. Many Canadians have lost a substantial portion of their retirement savings as a result of the turmoil. Although the recent market performance has been encouraging, as multiple studies have concluded, many pension plans continue to be underfunded and many Canadians who have been relying on RRSPs have had much of their already-insufficient savings eroded.

ICAC members manage money for Canadians on a discretionary basis. Clients provide firms with full authority (i.e. "investment discretion") to manage their savings according to the clients' own objectives, risk tolerance, and investment expectations. Under these arrangements, clients are not involved in day-to-day decision-making on the purchase or sale of individual securities. In exchange, ICAC members earn annual fees (i.e. "investment management fees") equal to approximately 1.25% - 1.5% of the value of the assets that are being managed. Clients generally have their assets "segregated" which allows the investment counsellor to customize a portfolio for each client and monitor the portfolio's returns.

GST – Since the GST's inception, certain financial services have been "exempt" (eg. brokerage commissions and GICs are not subject to GST) while others, such as investment management fees of the type earned by ICAC members, have had GST applied to them. There is no logical explanation for this lack of a level playing field and as a result there have been a number of court challenges to the different tax treatment of competing financial services.

In April 2009, the Federal Court of Appeal upheld a decision of the Tax Court of Canada in **Queen v The Canadian Medical Protective Association ("CMPA")** that discretionary investment management services are a "financial service" and the investment management fees charged in respect of them therefore should be exempt from GST. The impact of this decision is that Canadians, who have been paying GST on their investment management fees since 1991, should not have been doing so.

ICAC supports the CMPA decision and we believe investment management fees should not be and never should have been subject to GST. We believe there should be a level playing field among competing financial services and if some are to be exempt from the GST, all should be exempt from the GST. In addition, the elimination of the 5% tax on investment management fees would go a long way to helping Canadians and pension plans rebuild lost capital, an issue of vital importance to both governments and the public.

It is critical that there be clarity on this issue as our members charge clients GST on a quarterly basis and the case has brought into question whether GST should continue to be charged. Investors could also be eligible for a rebate of up to two years for GST paid. Many clients are well aware of the CMPA case and are questioning why GST is still being applied to their investment management fees. Some are going through the process of applying for rebates. To date we are unaware of any such rebates being paid.

The federal Department of Finance has not formally communicated its position on the CMPA decision. As a result, most Canadian tax advisors have recommended that investment managers continue to charge GST until a formal communication is issued.

HST - We believe the Federal Court of Appeal's decision in the CMPA case makes clear that GST/HST should not be applied to fees charged in respect of discretionary management services and are hopeful that the federal government will, in accordance with the court's ruling, soon exempt such services from the GST's tax regime. This would reduce the cost of investing and encourage Canadians to save more for retirement, a major issue given the recent losses in personal and pension fund investment values.

If the federal government continues to delay its response to the CMPA decision and/or require that GST continue to be applied to investment management fees, we would like the Federal government and the provinces currently in discussions with Ottawa on a possible HST (eg. Ontario, BC) to be aware of two issues as it considers implementation of the HST:

- Applying HST to investment management fees will increase the tax on these financial services from 5% to 12 or 13% (i.e. 12% BC, 13% Ontario), a significant increase which will further discourage Canadians resident in tax harmonizing provinces, from investing and saving for retirement.
    - If, for example, in Ontario, a 13% tax is levied on investment management fees, there is a serious risk that funds will be moved from capital markets to investments such as GICs, which would counter one of the objectives both the Federal and provincial governments are trying to achieve – to stimulate economic growth and improve economic efficiency.
    - Alternatively, residences of provinces introducing an HST, may choose to move to a discount brokerage to manage the purchase and sale of their securities and forego the benefit of professional investment management in the selection of securities in order to avoid a 13% tax on management fees. Given that many Canadians' financial literacy is below desirable levels, discouraging Canadians from accessing the advice of investment professionals would run counter to the goal of helping them plan for their financial futures.

Recommendation:

There should be a level playing field among competing financial services. It is illogical and unfair that Canadians who choose to build their retirement savings through GICs or through the discount brokerage channel should do so tax-free while Canadians who choose to build their savings with a balanced portfolio of equity investments and on the basis of discretionary investment management may be subject to an additional 13% tax. It is equally unfair that pension plans currently struggling to meet funding requirements, could be subject to an additional tax on investment management fees if a number of provincial governments implement an HST.

We urge the Federal Government to consider the elimination of GST as one means to ease the burden pension plans and individual Canadians are facing in saving for retirement.

The elimination of GST on investment management fees would:

- Ensure fairness among competing financial services;
- Encourage Canadians to invest and save more for their retirements;
- Not discourage Canadians and their pension managers from seeking much-needed investment advice should they choose to do so; and
- Avoid encouraging the movement of savings from equities to GICs, and thus creating further market turmoil and inhibiting economic recovery.

<u>Issue 2 –</u> Taxation Impact on Pensions & RRSPs due to 150 Unit Holder Rule to Qualify for Mutual Fund Trust Status

Background 150 Unit Holder Rule - Many investment management firms set up "pooled funds" that are smaller than mutual funds have different legal requirements but are widely used in the investment industry and attractive to many Canadians saving for retirement. There is currently a requirement in the Income Tax Act however, that these funds have an arbitrary minimum number of unit holders which is 150 to qualify as Mutual Fund Trusts, which ensures certain fairness in tax treatment with mutual funds. The issue is that many funds often drop below the 150 unit holder threshold and despite the fact that the fund has RRSPs and pensions in the fund, <u>the entire fund is subject to tax.</u>

This has been an issue for our membership and its clients for many years and for this reason has been included in past pre-budget submissions. The market turmoil in the last 18 months however, has increased the urgency for change, as many Canadians have withdrawn savings from funds which in some cases have resulted in funds dropping below the 150 unit threshold. The remaining pension plans and RRSPs in the fund are immediately subject to tax even though these savings are tax exempt. This is inconsistent with the general principles elsewhere in the Income Tax Act that allow Canadians to shelter some retirement savings.

It is unfair that this arbitrary provision in the *Income Tax Act* unfairly subjects some seniors and Canadians saving for retirement to less favourable tax treatment than other Canadians who invest in extremely similar pooled investment vehicles. The arbitrary "150 unit holder" number was introduced to distinguish bona fide commercial trusts from personal or family trusts. While ICAC supports the need to prevent tax avoidance, the 150 unit holder rule penalizes investors in legitimate investment vehicles.

Three of the major discrepancies in fairness between trusts that qualify as MFTs, and those that do not are:

1. MFTs qualify for investment status for RRSPs, RRIFs, DPSPs and RESPs without the additional investment restrictions imposed on "registered investments"; and,

2. MFTs are exempt from Alternative Minimum Tax (if they qualify as MFTs throughout the year).
3. MFTs are permitted to use the Capital Gains refund mechanism.

The 150 unit holder rule fails to reflect the investment realities faced by Canadians, and their pension plans and investment advisors:

- Many portfolio managers utilize unit trusts or pooled funds on behalf of their clients who are independent of each other as efficient pooling vehicles. These unit trusts are identical to mutual funds except that they do not have 150 unit holders. Like mutual funds, these funds are governed by a Trust Agreement and must have a Trustee;

- Under the current rules, even if there are 1000 members of a pension plan, a pooled fund in which the plan invests must treat the pension plan as a single unit holder for the purpose of determining its MFT eligibility; and,

- A common business practice is to keep funds small (e.g. some cap at $100 million) to allow the firm to be flexible with trades and to react quickly to changes in the market. When funds become too large, it is difficult to trade effectively as each trade has the potential to move the market. If a fund drops below 150 unit holders, it loses it MFT status and its investors are then subject to a tax disadvantage.

There would be minimal tax loss from a change to the 150 unit holder rule that restores tax fairness. In fact, a change would create a better environment for investments that would enable Canadians to optimize their savings. In addition, it would encourage new smaller entrants into the investment industry, further competition in the successful management of assets and increase overall asset management efficiency.

Negative effects of the 150 unit holder rule

1. It restricts Canadians from being able to optimize their savings. While a fund that has less than 150 unit holders may offer the best group of investments, the unfair tax implications may rule it out as an option altogether.

2. If an MFT drops below 150 unit holders, the impact could be significantly detrimental on the remaining investors. For example, once an MFT drops below 150 unit holders, it could lose its qualification as an investment for an RRIF, RRSP, DPSP, or RESP. This would immediately trigger a 1% penalty tax per month on an RRSP or RRIF holder that continues to hold the units.

3. It creates a barrier to foreign investment growth in Canada. For example, a small Canadian investment firm approached by a foreign pension plan to manage some Canadian assets may be forced to decline the business if (a) its pooled vehicles had less than 150 unit holders for fear that the non-resident investment would affect the tax treatment of unit holders under Part XII.2; and, (b) if it was not viable or effective to manage their assets on a segregated basis.

4. It leads to higher management fees for investors by creating obstacles for small advisors who have no choice but to pass on business to larger financial institutions. Small advisors' management fees are often 25 percent less than larger commercial mutual funds.

5. It results in an unworkable level of administration to the detriment of investors.

Recommendation:

In light of the current economic downturn and retirement savings crisis, we recommend that:

> ***Mutual fund tax status should be granted to a fund that has at least 50 unit holders; a "look through" principle should be incorporated for segregated funds holding RRSPs or pension plans (including those held through other trust vehicles such as Defined Benefit pension plans.)***

Changes to the "150 Unit Holder Rule" In the Income Tax Act

ICAC proposes that:

> **The Income Tax Act should be amended (Subsection 132(6) and Regulation 4801) to create tax fairness by making the threshold for commercial trusts to qualify as Mutual Fund Trusts reflective of investment realities.**
>
> **This would be achieved by lowering the current 150 unit holder requirement to <u>50 unit</u> holders. In addition, we propose that the "look through" principle should be revised to accommodate segregated funds holding RRSPs or pension plans (including those held through other trust vehicles such as Defined Contribution Pension Plans) to minimize the possibility of retirement savings being subjected to tax.**

<u>Issue 3 – Expansion of Designated Stock Exchange List to Allow Canadians to Diversify Their RRSP Investments</u>

Investments that are not on the **Designated Stock Exchange** list outlined in the *ITA*, are not qualified investments for RRSPs and other tax-deferred plans. Although the removal of the foreign content limits was a very positive decision for Canadians allowing them to better diversify their savings, the Designated Stock Exchange list prevents Canadians from better diversifying their retirement savings beyond the Designated Stock Exchange List.

We are recommending the current list of designated stock exchanges requires expansion and updating to allow Canadians to adequately diversify their savings in different economies around the world. Given the economic downturn during the last year, diversification of capital is even more critical. The current list of

38 exchanges primarily consists of exchanges in North America (40%) and Europe (40%). This excludes many respected, well regulated and established exchanges in other parts of the world. Given Canada according to the United Nations is one of the most culturally diverse nations in the world, it is logical that many new Canadians may wish to invest part of their retirement savings in their country of ancestry.

The current process requiring foreign exchanges to apply for designation is neither practical nor feasible as it places the onus on countries to be aware of Canadian tax law restrictions and to be incented to apply for exchange designation. We are not aware of any other country that has this practice which makes it even more unlikely that a foreign jurisdiction would seek out "designation" to encourage local investment.

If the Department of Finance is not prepared to eliminate the restrictive list entirely in line with the elimination of the 30% foreign content limit, then we urge the Department of Finance to adopt a more reasonable assessment measure which does not create additional requirements on Foreign Stock Exchange Designation nor create practical obstacles to expanding the current list. One such method may to be accept exchanges in OECD member countries.

The 2005 budget took the important step of eliminating the foreign content limit for RRSPs and other tax-deferred plans. However, seniors and Canadians saving for retirement are still unable to optimize the foreign content portion of their investment portfolio due to the time it is taking to prescribe certain foreign stock exchanges under the *ITA*.

Currently, there are a number of foreign stock exchanges, such as AIM, which have yet to be prescribed for the purposes of the *ITA*. This means that the investments on these exchanges are not qualified investments for RRSPs or other tax-deferred plans, even though the government has removed the foreign content limit for those plans. From a practical point of view, a Canadian investment manager wishing to establish an "emerging markets" fund for their clients is restricted to the current list. This list excludes many respecting, growing emerging economies which are opportunities for Canadians to grow and diversify their savings. The list below identifies exchanges ICAC members currently access for investment management purposes that are currently not Designated Stock Exchanges. The exchanges in blue are OECD countries; exchanges in red are OECD Accession Candidate countries and in green, Enhanced Engagement countries.

Argentina (Buenos Aires SE)
Belgium (Euronext Designated; Euroclear Not Designated)
Bermuda (Bermuda SX)
Brazil (Sao Paulo SE)
Bulgaria (Bulgarian Stock Exchange)
Chile (Santiago SE)
China (Shanghai (SSE), Shenzhen SE)
Colombia (Colombia Stock Exchange)
Czech Republic (Prague SE)
Egypt (Egyptian SE)
Greece (Athens SE)
Hungary (Budapest SE)
Iceland (ICEX)
India (National SE & Bombay SE)
Indonesia (Jakarta SX)
Japan (Tokyo SE Designated; Osaka SE Not Designated)
Malaysia (Kuala Lumpur SE)
Pakistan (Karachi SE)
Panama (BVP)
Peru (BVL)
Philippines (Philippines SE)
Portugal (Euronext Lisbon)
Russia (MICEX, RTS SE; SPBEX)
South Korea (Korea E)
Sweden (Stockholm SE Designated; Nordic Growth Not Designated)
Switzerland (SWX Designated; Switzerland Virtex Not Designated)

Taiwan (Taiwan SE)
Thailand (Stock Exchange of Thailand (SET))
Turkey (Istanbul SE).
United Kingdom (LSE Designated; AIM Not Designated)

ICAC strongly urges the government to accelerate the process to designate foreign stock exchanges for the purposes of the Income Tax Act to allow Canadians to take full advantage of international diversification of their assets. This is particularly critical at a time when interest rates are under 1 % and Canadians need options to ensure they have adequate savings for retirement.

Effects of the delay

1. Seniors and Canadians saving for retirement are unable to optimize their savings.
2. Investment Managers can not set up funds for Canadians to invest their retirement savings which include any of the foreign exchanges listed above.
3. Seniors and Canadians saving for retirement could be forced to take more risk than necessary with their savings. Because of the delay in prescribing certain foreign stock exchanges, some investors are unable to make particular foreign investments in their RRSP or other tax deferred plan that would enable them to obtain the optimal diversification of their portfolios assets.

Recommendation:

The ICAC recommends the Designated Stock Exchange list either be eliminated entirely OR be expanded to automatically include any exchanges in OECD member countries. In addition, consideration should be given to OECD Accession Candidate Countries & Enhanced Engagement Countries. Alternatively an equally credible organization to the OECD could be considered as a means to validate the regulatory controls of a foreign exchange.

<u>Issue 4 - Former Bill C10 – Ensuring Changes to Non Resident Trust Rules Do Not Result in Taxation of Pension Plans or RRSPs</u>

The Department of Finance issued a Comfort Letter in April2008 which provided an exemption from former Bill C10 tax liability to most Canadian pension plans and some retirement savings. The Bill however did not protect Canadian RRSP's which may be mixed in funds with taxable investors. If the Bill is passed as is not withstanding the Comfort Letter, these Canadian's retirement savings may be subject to tax. The result of this remaining flaw in Bill C10 is that Canadian investment managers will be forced to split some of their "co-mingled" funds to protect the RRSP holders within the mixed fund from the tax liability potentially imposed by Bill C10. This will result in many funds dropping below the 150 unit holder threshold and these Canadians being subject to the tax implications outlined above.

We appreciate the Comfort Letter issued by the Department of Finance to the ICAC April 2, 2008 which provided some interim clarity in terms of two key exemptions provided on page 2 *of the letter, namely:*

- *"..the first amendment would involve an exemption from resident contributor and resident beneficiary status for most registered pension plans, the CPPIB (and similar provincial pension funds, and certain Canadian intermediaries (trust and corporations) in which these qualifying pension plans are the only holders of equity interest or participating debt. The exemption would not, however, apply to a plan that is a designated plan (as defined in subsection 8500(1) of the Income Tax Regulations), a plan that has fewer than 10 members (as defined in subsection 147.1(1) of the Act or a trust or corporation any of the activities of which is to administer, manage or invest the monies of a retirement compensation arrangements."*

- *"The second amendment would modify the provisions of paragraph (h) of the exempt foreign trust definition to include a non-resident commercial investment trust, without regard to whether the trust holds restricted property, in which the only Canadian resident investors are Canadian mutual funds (as defined in sections 131 adn132 of the Act, and having at least 150 investors) whose investors are exclusively the pension plan entities that qualify for the exemption described above, registered retirement savings plans, and registered retirement income funds."*

In subsequent exchanges by email, the Department of Finance clarified that:

1) *"Regarding the first numbered paragraph of your e-mail below from earlier this afternoon, I can confirm that it is intended that the exemption identified in my letter to you of April 2, 2008 apply to the following "qualifying pension entities":*

    - *an RPP, other than a "designated plan" (as defined in subsection 8500(1) of the Income Tax Regulations) or a plan that has fewer than 10 members;*

    - *a trust (other than an "RCA trust" (as defined in subsection 207.5(1) of the Act)) or corporation (such as, for example, the Canada Pension Plan Investment Board, the Public Sector Pension Investment Board and the Caisse de dépôt et placement du Québec) established by federal or provincial legislation the principal activities of which are to administer, manage or invest the monies of one or more pension funds or plans established pursuant to such legislation; and*

    - *certain Canadian intermediaries – corporations and trusts (including segregated fund trusts) – in which qualifying pension entities are the only beneficiaries and holders of participating debt. "*

Brian Ernewein, General Director of the Tax Legislation Division, further clarified by email that the third bullet under point 1 would include a unit trust in which qualifying pension entities are the only beneficiaries (and holders of participating debt).

2) *"As we have discussed and as noted above, it is intended that the reference to Canadian intermediaries in that letter include a segregated fund trust (i.e., a deemed trust under section 138.1 of the Income Tax Act), but the exemption is not intended to apply in respect of other insurance contracts.*

I can also confirm the accuracy of the comments in paragraph 3(a) of your e-mail, but note that the proposed relief is broader than your description in that not only RPPs, but any "qualifying pension entity" would be an acceptable investor for purposes of the modified paragraph (h) of "exempt foreign trust".

Finally, I appreciate your comments in paragraph 3(b) et seq of your message. "

As you can well appreciate, the markets require some certainty and many of our members are proactively trying to determine how they should invest certain funds in the interim. It is therefore important to understand the Department of Finance's intentions with respect to the former Bill C10; what amendments are being contemplated and are any other exemptions being considered which would provide relief from the NRT rules for tax exempt foundations. (eg. charities, hospitals, universities.)

Lastly we urge the Department of Finance when drafting revisions to consider any potential "cooling" effect the rules may have on Canadian investors being accepted into international funds. We understand there remain some international trusts who have been directed not to allow Canadian investors into the fund for fear of the negative tax impact on the entire fund that was contemplated in former Bill C10.

Recommendation:

We are recommending that when the Bill is reintroduced in the House, the wording be drafted as broadly as possible to ensure all Canadian's retirement savings, whether in an RRSP, defined contribution pension plan or a defined benefit pension plan, be exempt from tax.