

# **Employment and Social Development Canada**

Schedule of the Common Experience Payment  
Designated Amount Fund  
**September 30, 2015**  
(in thousands of dollars)

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Internal Audit Services Branch (IASB) at ESDC**



February 2, 2016

## **Independent Auditor's Report**

### **To the Internal Audit Services Branch of Employment and Social Development Canada**

We have audited the accompanying schedule of the Common Experience Payment (CEP) Designated Amount Fund of Employment and Social Development Canada (ESDC) as at September 30, 2015 and for the period from October 1, 2012 to September 30, 2015, and the related notes, which comprise a summary of significant accounting policies and other explanatory information ("the financial information"). The financial information has been prepared by management of ESDC in accordance with Article 5 of the Indian Residential Schools Settlement Agreement (IRSSA) effective September 19, 2007.

#### **Management's responsibility for the financial information**

Management of ESDC is responsible for the preparation of the financial information in accordance with Article 5 of the IRSSA, and for such internal control as management of ESDC determines is necessary to enable the preparation of financial information that is free from material misstatement, whether due to fraud or error.

#### **Auditor's responsibility**

Our responsibility is to express an opinion on the financial information based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial information. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial information, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to ESDC's preparation of the financial information in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the ESDC's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial information.

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“PwC” refers to PricewaterhouseCoopers LLP, an Ontario limited liability partnership.



We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Opinion**

In our opinion, the schedule presents fairly, in all material respects, the Common Experience Payment Designated Amount Fund of ESDC as at September 30, 2015 and for the period from October 1, 2012 to September 30, 2015 in accordance with those requirements of Article 5 of the IRSSA relevant to preparing such financial information.

**Basis of accounting and restriction on use**

Without modifying our opinion, we draw attention to note 2 of the financial information, which describes the basis of accounting. The financial information is prepared to provide ESDC with the closing balance of the Designated Amount Fund as at September 30, 2015. As a result, the financial information may not be suitable for another purpose. Our report is intended solely for ESDC and the parties listed in the IRSSA and should not be used by parties other than ESDC and the parties listed in the IRSSA.

*PricewaterhouseCoopers LLP*

**Chartered Professional Accountants, Licensed Public Accountants**

# **Employment and Social Development Canada**

## **Schedule of the Common Experience Payment Designated Amount Fund**

**As at September 30, 2015 and for the period from October 1, 2012 to September 30, 2015**

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(in thousands of dollars)

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Designated Amount Fund, opening balance as at October 1, 2012 (note 1)	328,880
Interest revenue (note 2.c.)	7,384
Administration costs (note 2.d.)	(15,090)
Payments to CEP recipients (note 3)	(14,311)
Payments of Personal Credits (note 4)	(56,748)
Payments to organizations (note 5)	<u>(82,766)</u>
Designated Amount Fund, closing balance as at September 30, 2015 (note 6)	<u>167,349</u>
Contractual Obligations (note 6)	
Contingencies (note 7)	

The accompanying notes are an integral part of this financial information.

# Employment and Social Development Canada

Notes to the Schedule of the Common Experience Payment Designated Amount Fund

**As at September 30, 2015 and for the period from October 1, 2012 to September 30, 2015**

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## **1 Nature of Designated Amount Fund**

The Indian Residential Schools Settlement Agreement (IRSSA) is the result of a class action and other lawsuits brought against the Government of Canada and the Church entities involved in running Indian Residential Schools. The IRSSA includes the Common Experience Payment (CEP), which the Government of Canada pays to all eligible former students who resided at recognized Indian Residential Schools, an Independent Assessment Process for claims of sexual and serious physical abuse, as well as measures to support healing, commemorative activities, and the establishment of a Truth and Reconciliation Commission. The IRSSA received court approval on March 21, 2007, and the court approved implementation date was September 19, 2007.

A Designated Amount Fund was established on September 19, 2007 pursuant to Section 21 of the *Financial Administration Act*, to record amounts received and paid under Article 5 (Common Experience Payment) of the IRSSA. The Designated Amount Fund provides for payments to eligible former students of recognized Indian Residential Schools. The Designated Amount Fund is co-administered by the Trustee, the Government of Canada, represented jointly by the Minister of Families, Children and Social Development (formerly the Minister of Employment and Social Development) and the Minister of Indigenous and Northern Affairs (formerly the Minister of Aboriginal Affairs and Northern Development), respectively. Indigenous and Northern Affairs Canada (INAC) is responsible for determining the eligibility of the clients requesting CEP and oversight of a third party service provider in the processing of all Personal Credits, and Employment and Social Development Canada (ESDC) manages all the financial activities related to the Designated Amount Fund through Service Canada.

A previous schedule of the CEP Designated Amount Fund of ESDC (formerly named Human Resources and Skills Development Canada) as at September 30, 2012 and for the period from September 19, 2007 to September 30, 2012 was audited in 2013. The audited balance of the Designated Amount Fund as at September 30, 2012 was \$328,879,724 and is shown in the accompanying schedule as the opening balance as at October 1, 2012 (in thousands of dollars).

## **2 Significant accounting policies**

### **a. Basis of accounting**

The schedule of the Common Experience Payment Designated Amount Fund is prepared in accordance with Article 5 of the IRSSA effective September 19, 2007.

### **b. Common Experience Payment**

A Common Experience Payment is recorded on a cash basis when authorization for the payment exists and the payment has been issued.

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Notes to the Schedule of the Common Experience Payment Designated Amount Fund

**As at September 30, 2015 and for the period from October 1, 2012 to September 30, 2015**

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## **c. Interest revenue**

As per Article 5.03 of the IRSSA, interest revenue on the Designated Amount Fund balance is recognized in the period it is earned and as provided in Order in Council P.C. 1970-300 of February 17, 1970, made pursuant to Section 21(2) of the *Financial Administration Act*.

Interest on the balance of the Designated Amount Fund is calculated daily and is credited to the Fund. The interest rate used in the determination of interest revenue is equal to 90 percent (%) of the simple arithmetic mean of the accepted bi-weekly three-month Treasury Bill tender rates for the month immediately preceding the month in respect of which interest revenue is earned. The calculation of interest commenced on September 19, 2007.

## **d. Administration costs**

Per Article 5.08 of the IRSSA, all internal administration costs relating to the CEP and its distribution are assumed by the Government of Canada, whereas all internal administration costs relating to the Personal Credits and their distribution are to be paid directly from the Designated Amount Fund.

Administration costs are recorded on a cash basis when authorization for the payment exists and the payment has been issued.

## **e. Personal Credits**

A Personal Credit payment is recorded on a cash basis when authorization for the payment exists and the payment has been issued to the agent of the Trustee to pay the named Educational Entities/Groups on behalf of a Personal Credit recipient.

## **3 Payments to CEP recipients**

Subject to Sections 17.01 and 17.02 of the IRSSA, a CEP is made out of the Designated Amount Fund to every eligible CEP recipient who submits a CEP Application provided that:

- the CEP Application is submitted to ESDC in accordance with the provisions of the IRSSA;
- the CEP Application is received prior to the CEP Application Deadline;
- the CEP Application is validated in accordance with the provisions of the IRSSA; and
- the eligible CEP recipient was alive on May 30, 2005, or was a member of the Cloud certified class and was alive on October 5, 1996.

As per Article 5.02 of the IRSSA, a CEP is determined as follows:

- ten thousand dollars (\$10,000.00) to every eligible CEP recipient who resided at one or more Indian Residential Schools for one school year or part thereof; and
- an additional three thousand (\$3,000.00) to every eligible CEP recipient who resided at one or more Indian Residential Schools for each school year or part thereof, after the first school year; and less the amount of any advance payment on the CEP received.

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Notes to the Schedule of the Common Experience Payment Designated Amount Fund

**As at September 30, 2015 and for the period from October 1, 2012 to September 30, 2015**

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## **4 Personal Credits**

Per Article 5.07 of the IRSSA, if the balance in the Designated Amount Fund exceeds the amount required to make payments to all eligible CEP recipients by more than \$40,000,000, the excess will be apportioned pro rata to all those who received a CEP to a maximum amount of \$3,000 per person in the form of Personal Credits.

Personal Credits are defined as credits that do not have cash value; are transferable to a family member who is a member of the Family Class; may be combined with the Personal Credits of other individuals; and are redeemable for either personal or group education services provided by Educational Entities/Groups jointly approved by Canada, the Assembly of First Nations and Inuit Representatives.

On October 31, 2013, the Supreme Court of British Columbia approved the terms and conditions and notice plan for the administration of Personal Credits which permitted the Trustee to proceed with the launch of the Personal Credits program. Eligible CEP recipients had until October 31, 2014 to apply for Personal Credits and until December 1, 2014 to submit their Personal Credits Redemption Form.

On January 7, 2015, the Supreme Court of British Columbia approved new deadlines to apply for Personal Credits which permitted CEP recipients to submit an application for Personal Credits by March 9, 2015 and submit Personal Credits Redemption Forms by June 8, 2015. The deadline for completion of courses supported by Personal Credits was August 31, 2015.

## **5 Payments to organizations**

Per Article 5.07(2) of the IRSSA, after the payment of the maximum amount of Personal Credits to all eligible CEP recipients who have received the CEP, including payment of all administration costs related thereto, all excess funds remaining in the Designated Amount Fund are to be transferred to the National Indian Brotherhood Trust Fund (NIBTF) and to the Inuvialuit Education Foundation (IEF) consistent with applicable Treasury Board policies set out in Section 5.07(5). The monies transferred are to be used for educational programs on terms and conditions agreed between Canada and NIBTF and IEF, which terms and conditions shall ensure fair and reasonable access to such programs by all class members including all First Nations, Inuit, Inuvialuit and Métis persons.

Per Article 5.07(5) of the IRSSA, funds in the Designated Amount Fund are to be transferred to the NIBTF and the IEF respectively proportionately based on the total number of eligible CEP Recipients other than Inuit and Inuvialuit who have received the CEP in the case of the NIBTF and the total number of Inuit and Inuvialuit eligible CEP recipients who have received the CEP in the case of the IEF.

On July 27, 2015, the Supreme Court of British Columbia instructed Canada to make progressive payments to the NIBTF and the IEF based on the net reserve balance in the Designated Amount Fund. The net reserve balance consists of the funds left in the Designated Amount Fund after consideration for contractual obligations and contingencies, as estimated by Canada.

# **Employment and Social Development Canada**

## **Notes to the Schedule of the Common Experience Payment Designated Amount Fund**

**As at September 30, 2015 and for the period from October 1, 2012 to September 30, 2015**

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Payments to organizations processed before September 30, 2015 totalled \$82,765,786. The payments were based on a net reserve balance in the Designated Amount Fund of \$165,531,570 as at April 30, 2015 and were as follows:

- On August 10, 2015, 25 percent (%) of the net reserve balance resulting in payments of \$41,382,893 and,
- On August 31, 2015, 25 percent (%) of the net reserve balance resulting in payments of \$41,382,893.

## **6 Contractual obligations**

The nature of the activities affecting the Designated Amount Fund can result in significant obligations whereby the Trustee will be obligated to make future payments as required under the instructions from the Court. Total estimated costs of \$6,318,000, inclusive of applicable taxes, are expected to be borne by the Designated Amount Fund subsequent to September 30, 2015 for the administration and distribution of the Personal Credits.

Additional Personal Credit payments will also be paid out of the Designated Amount Fund subsequent to September 30, 2015 as applications are still being processed by the Agent of the Trustee and some payments are to be issued to the Agent of the Trustee to pay the named Education Entities/Groups on behalf of Personal Credit recipients. As at September 30, 2015, the estimated future payments amount to \$628,000. These additional amounts are not accounted for in the Designated Amount Fund as at September 30, 2015.

## **7 Contingencies**

As at September 30, 2015 there were CEP files in process for various stages of reconsideration and appeals which may represent additional amounts to be paid to eligible recipients out of the Designated Amount Fund after September 30, 2015. At this time, the potential financial impact of these matters cannot be estimated and have not been accounted for as at September 30, 2015, but could be significant to the Designated Amount Fund.

Additional amounts to be paid to eligible recipients out of the Designated Amount Fund after September 30, 2015 may also emerge from ongoing internal file reconciliation exercises. At this time, the potential financial impact of these matters cannot be estimated and have not been accounted for as at September 30, 2015, but could be significant to the Designated Amount Fund.

On July 27, 2015, the Supreme Court of British Columbia barred any future requests, applications or requests for direction seeking to add an institution to the approved list of Indian Residential Schools. As at September 30, 2015, there are four challenges before the courts involving four institutions which commenced prior to this Court Order which may represent additional CEP amounts to be paid out of the Designated Amount Fund. As at September 30, 2015, contingencies for claims and pending litigation are estimated at \$39,000,000. At this time, the potential outcome of these claims cannot be determined and have not been accounted for in the Designated Amount Fund as at September 30, 2015, but could represent significant additional amounts to be paid out of the Designated Amount Fund.