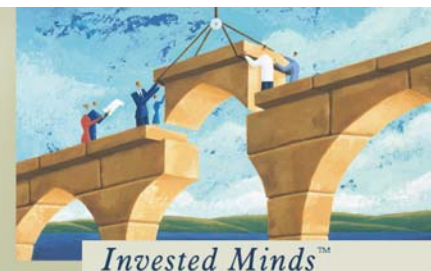




Global Asset Management Inc.

# Market Insight



DECEMBER 17, 2004

## Limited Liability for Ontario Income Trust Investors

Bill 106, which contains the *Trust Beneficiaries Liability Act, 2004* received Royal Assent last night, passing into law in the Ontario Legislature. As a result, unit holders of all income trusts domiciled in Ontario will have the same liability protection as do shareholders in a corporation.

"This is a big step for income trusts, but it was widely anticipated," says David Graham, Vice President - Canadian equities and one of TAL's income trust experts. "Limited liability for trust investors removes a major roadblock for pension funds, but we don't think this will be a floodgate of any kind."

Ontario joins Alberta in legally recognizing the liability protection of income trust investors. In May of this year, Alberta's *Income Trusts Liability Act* received Royal Assent, and provides that no beneficiary of an Alberta income trusts will be "liable for any act, default, obligation or liability of the trustee." The Ontario Legislature's decision last night has been long awaited; especially since the large majority of income trusts in the marketplace today are domiciled in either Ontario or Alberta.

Pension funds for the most part have remained on the sidelines in the income trust market. Now that unlimited liability is no longer a concern, Graham believes many will begin to consider the benefits of income trusts within a pension fund.

"The benefits of including income trusts in pension plans are compelling, and liability has certainly been a show-stopper until today," says Graham. "However, we don't know how close pension funds are to entering the market - we expect to see more interest building over the next few months given this important development."

S&P/TSX Index inclusion and treatment in the Federal Budget are the two uncertainties still hovering over income trusts in the minds of most pension plan investors.

The restrictions on pension fund investments in business income trusts proposed in the 2004 Federal Budget were met with such strong opposition that Finance Minister Ralph Goodale quickly suspended them, to "allow for further consultation... with representatives of the pension fund industry, the investment industry, provincial governments and other interested parties." There is no indication yet when or indeed if this issue will be raised in the 2005 Budget.

As for Index inclusion, Graham expects to hear news soon. "We expect a comment from the TSX Index Committee by the end of this year, and we think the most likely scenario is a creation of a Super Index, which will be based on the TSX Composite plus trusts that otherwise meet TSX Listing requirements."



David Graham and the Canadian Equity Value team at TAL Global Asset Management are responsible for more than \$1.0 billion in income trust investments, in both retail and pension investment plans. The team, led by Gaelen Morphet, has been following this market for more than eight years, making TAL one of the most experienced income trust investment managers in Canada.

Disclaimer: This document has been prepared for the general information of our clients and does not constitute an offer or solicitation to buy or sell any securities, products or services and should not be construed as specific investment advice. The information contained in this document has been obtained from sources believed to be reliable, but we do not represent that it is accurate or complete and it should not be relied upon as such. All opinions and estimates expressed in this document are as of the time of its publication and are subject to change.

© A registered trademark of TAL Global Asset Management Inc.™ Trademark of TAL Global Asset Management Inc. ©2004 TAL Global Asset Management Inc. All rights reserved.

TAL Global Asset Management Inc. is a member of the CIBC Group of companies.