

# RSM Richter

May 12, 2011

RSM Richter Inc.

200 King St. W., P.O. Box 48, Suite 1100  
Toronto, ON M5H 3T4  
Tel: 416.932.8000 Fax: 416.932.6200  
www.rsmrichter.com

## **TO THE CREDITORS OF SKD COMPANY, A PARTNERSHIP OF NMC CANADA, INC. AND 2515080 NOVA SCOTIA COMPANY**

As you are aware, on January 11, 2011, SKD Company, a partnership of NMC Canada, Inc. and 2515080 Nova Scotia Company, filed an assignment in bankruptcy and RSM Richter Inc. was appointed trustee ("Trustee") of SKD Company's bankrupt estate. As Trustee, we are writing to advise you of a recent development in this matter that will impact the timing of distributions to creditors of SKD Company.

On April 7, 2011, the Court of Appeal for Ontario issued a decision in a case regarding Indalex Limited ("Indalex Decision"), an insolvent company, that considered issues related to underfunded defined benefit pension plans. The implication of the Indalex Decision is that, in certain circumstances, pension plan beneficiaries or their representatives may be able to assert deemed trust claims or constructive trust claims in respect of deficits arising upon the wind-up of a pension plan, which claims can be priority claims in the insolvent estate.

SKD Company had a number of pension plans that are being wound up. PricewaterhouseCoopers LLP ("PwC") was appointed by the Financial Services Commission of Ontario to wind-up certain of SKD Company's pension plans ("Pension Plans"). On April 12, 2011, the Trustee was advised by PwC that it is in the process of reviewing the Indalex Decision to determine whether to file claims in the SKD Company estate on behalf of certain of the Pension Plans on the basis that the assets of SKD Company are subject to a constructive trust in favour of one or more of the Pension Plans. These claims, if advanced and substantiated, could constitute priority claims against the SKD Company estate. The quantum of such potential claims is unknown at this time and the Trustee has requested that PwC provide additional information so that the Trustee can be in a position to review and assess the claims. To date, the Trustee has received no information from PwC in support of its initial e-mail.

Consequently, the timing of distributions to creditors remains uncertain at this time. The Trustee will update the creditors on this matter in due course.

Please do not hesitate to contact us should you have any questions regarding the above.

Yours very truly,



**RSM RICHTER INC.  
TRUSTEE IN BANKRUPTCY OF  
SKD COMPANY, A PARTNERSHIP OF NMC CANADA, INC.  
AND 2515080 NOVA SCOTIA COMPANY  
AND NOT IN ITS PERSONAL CAPACITY**