

**COMMENTARY ON THE CANADIAN FRANCHISE ASSOCIATION  
DISCLOSURE DOCUMENT GUIDE**

(As at \_\_\_\_\_, 2001)

1. CORPORATE NAME OF FRANCHISOR - In addition to the corporate name, information as to the trademarks used in the operation of the franchise and their status of registration and ownership may be material.
2. BUSINESS EXPERIENCE OF THE FRANCHISOR - The intent of this section is to provide the prospective franchisees with sufficient information about the experience of the franchisor in the underlying business. This experience could be that of the shareholders of the franchisor, but might also include the specific business experience of the directors, officers or employees of the franchisor. It will be common that a franchisor is already disclosing some or all such information in promotional material.
3. DIRECTORS GENERAL PARTNERS AND OFFICERS - Refer to the Guide. In addition, it may be relevant in some situations, such as where the major shareholders are involved in managing the franchise, to include similar information about those major shareholders.
4. FRANCHISE EXPERIENCE OF THE FRANCHISOR - It is important in making a decision about investing in a franchise that the prospective franchisee know of the franchise experience of the franchisor. It is relevant that the franchisor is operating or has operated other franchise systems.
5. NATURE OF BUSINESS - The intent of this section is to describe in brief summary form the material aspects of the franchisor's own business, and of the type of franchised business being offered to prospective franchisees, in general terms sufficient for a prospective franchisee to understand the material nature of the franchisor's business and of the franchises being offered.
6. EXISTING FRANCHISEES - Prospective franchisees are receiving advice from many different sources, including our Association's booklet "Investigate Before Investing", that they should inquire of existing franchisees about the system. Sometimes, complaints are made that the franchisor supplies prospective franchisees with the names and addresses of only "friendly" franchisees. It is felt that the franchisor should disclose or otherwise provide or make available for review information about all existing franchisees and let the prospective franchisee decide which ones to contact. The franchisor is strongly encouraged to include the existing franchisee information in its Disclosure Document. However, if the franchisor, and particularly in the case of the large, mature systems, chooses not to include this information, for confidentiality, privacy or competitive reasons, then the franchisor should make, and should disclose in the Disclosure Document, alternate arrangements to provide this information to, or make it available for review by, the prospective franchisee a reasonable time before signing any franchise document containing a non-refundable financial commitment. Where the existing franchisee information is not being included in the Disclosure Document as described

above, information about the total number of franchisee outlets currently operating in the system should be included in the Disclosure Document. The franchisor can choose whether to include an existing franchisee's business or residential address and telephone number, and it is considered appropriate to provide only one contact address and telephone number in the case of franchisees who have more than one franchise location. The franchisor may choose, include an existing franchisee's residential or other business or contact address and telephone number to avoid having prospective franchisees contacting franchise locations where a franchisee principal is not normally present.

The existence of and contact persons for any franchisee associations or advisory councils operating in the system may also be relevant. By disclosing that information, the franchisor provides to a prospective franchisee a further valuable investigative source. However, it is considered appropriate that the franchisor disclose only those franchisee associations or advisory councils that have been recognized by the franchisor.

7. CORPORATE OUTLETS - Refer to the Guide.
8. REQUIRED INVESTMENT BY THE FRANCHISEE - It is anticipated that this information is already being supplied by the franchisor to prospective franchisees.
9. THE FRANCHISE DOCUMENTS - It is felt that too much disclosure about the franchise documentation is as bad as too little. The goal here is to provide the prospective franchisee with a succinct summary of the most important provisions of the franchise package of documents.
10. REBATES - The intent of this section is to provide the prospective franchisees with general, rather than specific, information about rebates and similar benefits being received by the franchisor or an affiliate, and whether or not the franchisees share in them, directly or indirectly, in whole or in part. It is not required to disclose any of the actual terms of the rebates and benefits being received, or the names of the parties who provide them.
11. EARNINGS CLAIMS - It is the franchisor's own decision as to whether or not it makes or does not make earnings claims. Refer to the Guide for what should be disclosed in each case. Past sales history for the system may be considered material by some prospective franchisees. It is considered appropriate to have an earnings claim referred to in the Disclosure Document and then to have the earnings claim attached as a Schedule to the Disclosure Document.
12. OPPORTUNITY TO REVIEW DOCUMENTS AND INVESTIGATE THE FRANCHISE - It is considered appropriate to provide a prospective franchisee with at least 14 clear days to review the franchise offering with legal, financial and business advisors. A statement as to how long a period of review is allowed by the franchisor should appear in the Disclosure Document.
13. BANKRUPTCY AND INSOLVENCY - In addition, information about bankruptcy or insolvency of predecessors or controlling shareholders of the franchisor may be relevant.

14. EXISTING LITIGATION - Information about any material litigation should be sufficient to identify the main issues and claims and the parties litigating. Franchisors need not reveal information about litigation that is not part of the public court record. However, the franchisor may, if desired, offer an opinion about the outcome of the litigation.
15. OUTLET CLOSURES - The intent of this section is to provide the prospective franchisees with general information about the total numbers of outlets, rather than specific information about them or the reasons for their closure, etc. The information may be included in whatever form, such as a narrative, list or table, that the franchisor decides. It is considered appropriate that this information be updated at least annually, or whenever the Disclosure Document is updated for a change in other material information.
16. OTHER MATERIAL INFORMATION - Any other information material to the franchise, the franchise relationship or about the franchisor should be described in reasonable detail, particularly if such information is not contained in the franchise package of documents. In considering whether or not something is material consider whether or not it would influence the decisions of prospective franchisees to acquire the franchise or the amount that prospective franchisees would be willing to pay to acquire the franchise.
17. CERTIFICATE OF DISCLOSURE - This certificate should be inserted in the Disclosure Document without amendment, together with the CFA Code of Ethics. The Disclosure Document should be signed on behalf of the franchisor by at least one director, general partner or senior officer.

### **GENERAL NOTE**

CFA's current policy regarding the disclosure documents of members, is that:

instead of providing the disclosure document required by the CFA Disclosure Document Guide, members are permitted to use a disclosure document prepared and used in accordance with the franchise disclosure laws of one or more jurisdictions in Canada or the United States, together with the CFA Code of Ethics, and with appropriate changes to expand upon disclosures which pertain to only one or more specified jurisdictions, in order to disclose substantially similar information which pertains to all areas in Canada in which the member is franchising, and to disclose in reasonable detail any such additional information which the member considers material in order to make the disclosures pertinent to the actual franchises being offered.

members are encouraged to use a substantially consistent form of disclosure in all Canadian jurisdictions.