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Dear Sirs / Mesdames,

Re: CAPSA Consultation on the Draft Defined Contribution Pension Plans Guideline

We are writing in response to the request for comment from the Canadian Association of Pension Supervisory Authorities (CAPSA) on its recently issued draft *Defined Contribution Pension Plans Guideline* (the *DC Guideline*).

Executive Summary
Advocis is very confident that the earlier development of the *CAP Guideline* and this draft *DC Guideline* will provide a framework that will ensure the continued success of all relevant stakeholders who follow the guidelines. Indeed, the earlier *CAP Guideline* has proven to be a model of clarity for employers, plan sponsors and administrators, and advisors, and the draft guideline under review promises to be the same. The *DC Guideline* has three main components; Advocis offers the following comments on them:

1. The rights and responsibilities of plan stakeholders. In cases where a plan member's language of choice is not French or English, Advocis would like to see further guidance from CAPSA on the role of plan administrators on issues such as the provision of access to a

translator or to materials translated into the member's language of choice.

2. <u>The provision of tools and information for plan members</u>.
a. Is there undue risk exposure for plan administrators regarding targeted pension benefits?
With regard to section 3.3 of the draft *DC Guideline*, Advocis would like clarification on the responsibility of the plan administrator regarding the provision of targeted pension information in plans where the member can readily change his or her own asset allocation. In such plans, the targeted pension figure is of course calculated in part from the client's current investment allocation, which the member can easily change. And in an era of volatile investment markets, the changes can happen quickly and have a great impact on anticipated returns. Assigning a robust level of responsibility for projecting the expected pension from a DC plan could put the plan administrator and other parties at risk.

b. Employer's responsibility regarding quasi-group retirement income funds
Advocis would like CAPSA to note that in the event the employer offers a "quasi-group" employer-sponsored LRIF or RIF and a member transfers his or her assets from the DC plan into either or both of those options, then the employer should bear a continued responsibility for ongoing communication to that asset holder.

Introduction

The *DC Guideline* is part of CAPSA's ongoing initiative to review the regulation and supervision of defined contribution (DC) pension plans. The DC Guideline builds on previous CAPSA guidelines, in particular, CAPSA *Guideline No. 3: Guidelines for Capital Accumulations Plans* (the *CAP Guideline*).

Advocis and pension plan regulation

Advocis, The Financial Advisors Association of Canada, is the oldest and largest voluntary professional membership association of financial advisors in Canada. As a voluntary organization, Advocis is committed to professionalism among financial advisors. Our members adhere to an established professional *Code of Conduct*, uphold standards of best practice, participate in ongoing continuing education programs, maintain appropriate levels of professional liability insurance, and put their clients' interests first.

Retirement planning is a priority for millions of Canadians and our over 11,000 members work with individuals, families and businesses to reach their financial goals. Indeed, across Canada, no organization's members spend more time working one-on-one on financial matters with individual Canadians than us. Our members provide comprehensive financial advice to Canadians through all stages of their lives including estate and retirement planning, wealth management, risk management, tax planning, employee benefits, critical illness and disability insurance. Our members provide retirement planning and investment advice to employees with CAP Plans, RRSPs and TFSAs and establish and administer CAP Plans and DB plans for small- and medium-sized businesses.

Advocis strongly supports the promotion of a sound retirement income system in Canada, and believes that for many Canadians the most appropriate type of employer-sponsored pension plan is a DC pension plan, especially for small- and medium-sized businesses. Given that our members provide retirement planning and investment advice to employees with pension plans, and also establish and administer pension plans for their own businesses and those of their clients, our comments below reflect a balanced perspective, one that takes into consideration the views of both pension plan recipients and pension plan sponsors.

Furthermore, Advocis believes that principles-based regulation (PBR), with its focus on outcomes, will provide greater flexibility to deal with new circumstances, new challenges and new products while providing consumer protection and an effective and efficient means of regulating market participants. A PBR approach to pension issues provides regulatory recognition to industry guidelines and practices, such as the guideline under review here. Advocis is of the position that the draft *DC Guideline*, both taken on its own and in conjunction with earlier CAPSA guidelines, is an exemplary case of sound, industry-informed PBR.

Advocis' review of CAPSA's draft *DC Guideline*

1. Advocis' general interpretation of the guidelines

Overall, Advocis is of the position that the draft *DC Guideline* is excellent. When properly used by plan sponsors, plan administrators and advisors, it will provide a very solid good framework for the implementation and administration of DC plans. The previous *CAP Guideline* worked very well for the last eight years, and has generally been quite useful as a code or guide to best practices. Indeed, in regard to both the draft *DC Guideline* and the established *CAP Guideline*, the task of a plan administrator, sponsor or consultant is relatively straightforward – one simply has to review the documents and then apply them: the elucidation of the processes and policy concerns is exceptionally clear and easy to follow. Proper application of the guidelines should ensure that committed parties enjoy a well-functioning DC plan.

When looked at in its totality, the *DC Guideline* offers an excellent framework to all stakeholders, and has the special virtue of being formulated so that each party can easily understand the roles of all other parties. As a framework, it doesn't impinge on the competitive advantages or specialties which certain stakeholders may want to introduce to the plan's administration or management.

In terms of the role of the financial advisor, the *DC Guideline* enables the plan administrator (or other stakeholder) to quickly and easily determine where it may require more advise and to then consult an advisor for the specific expertise and experience he or she has in terms of ethics, advice, and knowledge of product. The *DC Guideline* permits, when needed, the advisor to function as "the link" needed to make the plan guidelines work properly for the benefit of all. In the case of the neophyte plan sponsor (often a less educated or less involved employer), the framework allows the advisor to identify to the employer the role that he or she can play in the plan's ongoing administration and management.

Accordingly, Advocis is pleased to endorse the draft *DC Guideline*, subject to several minor comments offered below.

2. Advocis' specific comments

The *DC Guideline* supplements earlier CAPSA guidelines by providing clarity and guidance in the following areas:

(i) *The rights and responsibilities of plan stakeholders*. This section of the guideline provides clarification of the rights and responsibilities of plan administrators, employers, plan sponsors, members, service providers and fund holders with respect to DC pension plans.

(ii) *The provision of tools and information to plan members*. This section provides guidance to DC plan administrators regarding the tools and information to provide to members who are in receipt of a pension from a DC pension plan or when they are choosing amongst retirement options.

(iii) *Adverse amendments*. This section provides clarification of what constitutes an adverse amendment for DC pension plans or plans with a DC provision.

This comment will now detail several concerns Advocis has with regard to the draft *DC Guideline*'s first two components.

3. The rights and responsibilities of plan stakeholders

Advocis recognizes the need to balance the rights and obligations of employers, plan sponsors, administrators, members, and pensioners; indeed, our members provide advice to all of these groups in relation to DC plans throughout Canada.

Advocis would like guidance on the "language barrier" which some plan members face if their language of choice is not French or English. In such cases, it can prove both difficult and expensive to translate all of the print materials and online tools into that plan member's preferred language of communication. Providing access for that member to a competent translator can also prove expensive. Advocis would like CAPSA to offer comment on how a plan administrator can ensure that the duty owed to a plan member who is not sufficiently fluent in English or French is properly discharged.

4. The provision of information and tools to plan members

a. Undue risk exposure for plan administrators regarding targeted pension benefits?

With regard to section 3.3 of the draft *DC Guideline*, Advocis believes that there may be a practical issue related to targeted pension benefits. Plan administrators are mandated to provide members with information to help them understand and estimate their plan benefits on retirement, and to disclose if the plan is expected to provide an adequate retirement income in conjunction with other government pension programs. The *DC Guideline* states that this "may be best achieved by disclosing the targeted pension that is expected for a member (or sample of members) with qualifications on… [the] Term the member would have to participate in the pension plan… [the] Member's contribution rate (if optional under the pension plan)… [and the] Member's assumed portfolio of investments" (page 8 of the *DC Guideline*).

With appropriate plan design, governance and legislation, targeted benefit plans can be a cost-effective method of delivering adequate retirement benefits through a risk-shared arrangement. However, Advocis has concerns over the plan administrator's responsibility to provide information regarding a member's target benefit plan.

Providing information such as the member's years of participation and contribution rate is entirely straightforward, but the provision of targeted benefit calculations is far less so. Assigning responsibility for projecting the expected pension from a DC plan could put the plan administrator and other parties at risk. The targeted pension figure is based on the client's current investment allocation, which the member can easily change. And in an era of volatile investment markets, the changes can happen quickly and have a great impact on the anticipated returns. It therefore seems to us unreasonable for a party to bear a robust level of responsibility for the accuracy of a formal statement containing a projected forecast which is based in part on an investment allocation over which it does not have full control.

Accordingly, Advocis would like clarification on the responsibility of the plan administrator in this regard. When a plan member adjusts his or her own allocations, is the plan administrator then required to recalculate and restate the targeted pension? If so, under what time frame?

The idea of projecting pension benefits in a DC plan in the same way defined benefit plan benefits are projected and reported seems in this case problematic. At bottom, we would like a fuller explication of what responsibilities lie with the plan provider or administrator for targeted pension benefits – other than accuracy in the calculation of the benefit, timeliness in its reporting, and clarity in the explanation to the member of the variability of the projected benefit?

The foregoing also raises the issue of the impact of member-driven changes on a member's overall retirement planning. It is a defining feature of a targeted benefit plan that benefits can be reduced if the assets in the pension fund are insufficient to cover the target pension benefits and it is crucial that this possibility be adequately communicated to the members of the plan. Similarly, Advocis wonders if the *DC Guideline* should explicitly state that it must be explained to an employee upon joining the targeted benefit plan that in the event he or she changes his or her asset allocation or reduces his contributions, the accuracy of any future calculations of targeted benefits must then be called into question and such figures should be subjected to review and recalculation *before* the employee engages in further changes to both (a) his pension plan and (b) his overall financial plan.

b. Employer's responsibility regarding quasi-group retirement income funds
Again with regard to section 3.3, in particular the section entitled "Information for Members Who Are Approaching the Payout Phase" (page 8), Advocis would note that in a DC plan there are no direct payments from the fund. Upon reaching the payout phase, the plan member has to migrate from the DC plan to a locked-in retirement income fund (LRIF) and/or, for any non-locked-in portion, a retirement income fund (RIF). Once this transaction occurs, a plan member is effectively "off the company's books" and there is no responsibility for the former member on behalf of the company.

The draft *DC Guideline* indicates that employers have a responsibility to a plan members as he or she approaches the payout phase, but once the member is in the payout phase, there is no longer any responsibility resting with the employer, plan sponsor or plan administrator. Advocis wishes to note here that most good-sized DC pension plans in Canada have "group-style" RIF and LRIF options, which means members can transfer from the pension plan to an employer-sponsored quasi-group-LRIF or RIF. In such cases, the investments are moved over in kind and the employer does continue to bear responsibility. With regard to section 5.1, "Information For Members During Payout Phase" (page 10), if the employer offers a quasi-group RIF or LRIF, then Advocis would ask CAPSA to note that there is a continued responsibility resting with the owner in such cases for the ongoing communication of relevant information.

Conclusion

As noted above, Advocis' perspective on CAPSA's draft *DC Guidelines* is that they are well-written and provide an intelligible and easy-to-implement framework for DC plans. Advocis is uniquely positioned, given the services it provides to pension plan recipients and pension plan sponsors and its knowledge of the financial services regulatory framework, to provide a balanced perspective on DC plan issues. We are therefore grateful to CAPSA for the opportunity to comment on the *DC Guideline* and would be pleased to provide further assistance where possible.

Should you have any comments or questions with regard to this letter, please do not hesitate to contact the undersigned, or email Ed Skwarek at eskwarek@advocis.ca.

Sincerely,

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