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September 8, 2009

Julian McCarthy
Deputy Superintendent of Pensions
Department of Government Services
2nd Floor, West Block
Confederation Building
PO Box 8700
St. John's, NL A1B 4J6

Dear Mr. McCarthy:

Re: Consultation on Unlocking Pension Funds

Advocis welcomes the opportunity to provide its views on proposed amendments to the *Pension Benefits Act (1997)* regarding whether the funds that are transferred from a registered pension plan should be required to be in a locked-in retirement account or whether such funds can be unlocked.

Advocis is Canada's oldest and largest voluntary professional membership association of financial advisors and planners. Our association was founded in 1906 as the Life Underwriters Association of Canada. We represent life and health insurance licensees and mutual fund and securities registrants across the country. Our members are primarily owners and operators of their own small businesses who create thousands of jobs across Canada.

Advocis members are professional financial advisors who provide comprehensive financial planning and investment advice, retirement and estate planning, risk management, employee benefit plans, disability coverage, long-term care and critical illness insurance to millions of Canadian households and businesses. In addition, our members provide retirement planning and investment advice to employees with pension plans and many of our members establish and administer pension plans for businesses.

Retirement planning is a priority for millions of Canadians and our members work with individuals, families and businesses in achieving their financial objectives. Advocis financial advisors maintain lasting relationships with their clients based on trust. They take a long-term planning perspective and are helping to guide clients, young and old, individuals, families and businesses during these tough times of economic downturn and financial market turmoil.

Professional financial advisors and financial planners are a vital component of the financial services sector. They help Canadians save, invest and plan intelligently.

It is vitally important that individual Canadians and businesses have access to and be served by professional financial advisors and financial planners, to help them understand their financial needs and prospects, to save, to invest prudently, to address a variety of risks, and to meet future financial needs and their retirement planning goals.

General Comments

Advocis has established a Pension Task Force whose mandate is to provide public policy advice to interested stakeholders, in particular governments and pension regulators. The main objectives of the Pension Task Force are to promote a sound pension system in Canada and develop solutions to help ensure that pension plans remain sustainable from both an employer and consumer perspective, and to stimulate higher levels of plan sponsorship.

It is generally recognized that many Canadians do not have adequate retirement savings accumulated for their retirement and that increasing participation in pension plans should be a key priority of governments.

The Government's Consultation Paper refers to the Statistics Canada Report of November 2007 on "Pensions and retirement savings of families" (the "Report") and references one of the report's conclusions that, on average, Canadian families are better prepared for retirement today than they were in the past (the 1970's).

However, the Report also states that this conclusion does not apply universally and that two parent families in the bottom 20% of the earnings distribution are not better prepared for retirement while those in the top 20% are better prepared. It notes, therefore, that there is a growth in the inequality in families' retirement savings.

In addition, the Report points out that the study examined the evolution of retirement preparedness but *not* the extent to which current retirement savings are adequate to maintain living standards once retirement age is reached. The move from defined benefit to defined contribution plans and the increasing longevity of seniors were also not taken into account, both of which, the report states, will clearly influence families' living standards after retirement.

In general, Advocis is of the view that funds in a pension plan should be preserved for use during a person's retirement and not used for other purposes. Our specific comments on the questions asked in the Consultation Paper follow below.

Question 1: Should the Provincial Government maintain its existing locking-in legislation for funds accumulated in a registered pension plan? Why or why not?

Advocis believes that the legislation should be modified to allow for withdrawals in the case of financial hardship and if a non-resident of Canada in addition to the existing exceptions for small balances and considerably reduced life expectancy. Advocis would also recommend allowing 25% unlocking at age 55.

Question 2: Should the Provincial Government eliminate locking-in requirements altogether on money that is accumulated in a registered pension plan where an individual leaves the plan before retirement? Why or why not?

Advocis believes that the locking-in requirements should not be removed altogether as these funds should remain locked so as to contribute to a person's income during their retirement years.

Question 3: Should the Provincial Government provide for only a portion of funds, such as 25 per cent or 50 per cent, that is accumulated in a registered pension plan to be un-locked where an individual leaves the plan before retirement? If so, why and how much should be unlocked?

Advocis believes that such funds should remain locked, subject to its answer to question 5 below.

Question 4: Should the Provincial Government allow for all, or a portion, of funds that are accumulated in a registered plan to be unlocked only where there is financial hardship determined through a needs assessment? If so, why and who should do the needs assessment and who should pay to have the assessment done? If not, why not?

Advocis believes that there should be unlocking of funds from a locked-in retirement account in situations of financial hardship. We refer the Government to the Ontario rules regarding unlocking of pension funds which allows unlocking of funds in the following situations: if have low income; risk of eviction from a principal residence or rental premises; to access the funds for medical treatment for the person, their spouse or dependents; and if needed for residential renovations, alterations or construction to accommodate the use of a wheelchair, or other needs related to a disability or illness.

An application would be provided to the Financial Services Regulation division of Government Services. Payment of an application fee should not be a barrier to the process of accessing funds in situations of financial hardship.

Question 5: Should the Provincial Government permit unlocking of pension funds only after a plan member has reached a certain age, such as 50 or 55? If so, what should be the age and why?

Unlocking of locked-in accounts such as LIRAs, LIFS and LRIFs should be allowed after reaching the age of 55 and should be limited to 25% to provide for greater security that sufficient funds will remain to service the person over their remaining retirement years.

The unlocking of the 25% should not be limited to a one-time opportunity to unlock but rather there should be a periodic opportunity to unlock (on an annual basis, for example). This would ensure that people do not unnecessarily unlock 25% when they do not have a pressing need to do so but nonetheless unlock the funds as a result of it being their only opportunity to do so.

Question 6: Should the Provincial Government allow for all, or a portion of funds that are accumulated in a registered plan to be unlocked under conditions or criteria beyond financial hardship? If so, why and which conditions or criteria should be applied?

The Government of Newfoundland and Labrador currently has unlocking of small balances and reduced life expectancy. To promote harmonization with other jurisdictions, Newfoundland should also have unlocking if the person meets the test for non-resident of Canada.

Yours truly,

A handwritten signature in black ink, appearing to be 'G. Pollock', with a long horizontal flourish extending to the right.

Greg Pollock
President and CEO

A handwritten signature in black ink, appearing to be 'K. Dunphy', with a long horizontal flourish extending to the right.

Kevin Dunphy, CFP, CLU
Chair, Newfoundland and Labrador
Provincial Advocacy Committee