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Pensions Review
Policy, Planning and Professional Services Branch
Nova Scotia Labour and Workforce Development
PO Box 697
Halifax, NS B3J 2T8

Dear Sir or Madam:

Advocis, The Financial Advisors Association of Canada, is Canada's oldest and largest voluntary professional membership association of financial advisors and planners. We represent life and health insurance licensees and mutual fund and securities registrants across the country. Advocis members pride themselves on the service and advice delivered to individuals and the business community, particularly small-and medium-sized companies through the provision of professional financial advice and insurance and financial service products. This includes group RRSPs, deferred profit sharing plans and defined contribution ("DC") plans (hereinafter referred to collectively as "Capital Accumulation Plans or "CAP Plans") and defined benefit ("DB") plans.

Advocis has established a Retirement Income Adequacy Committee whose mandate is to identify retirement and pension issues that are of concern to Canadians and to promote a sound retirement income system in Canada including reforms to improve retirement income adequacy for Canadians now and in the future.

Pension coverage, retirement income adequacy and necessary reforms are major public policy issues. We commend the Nova Scotia Government for making it a priority to address pension gaps for its citizens that do not currently participate in a pension plan.

Retirement planning is a priority for most Canadians and our 10,000 members (nearly 350 of which operate in the Province of Nova Scotia) work with individuals, families and businesses in achieving their financial objectives. 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, with RRSPs and TFSA's and our members also establish and administer CAP Plans and defined benefit plans for small and medium sized businesses.

General Comments

Advocis would like to stress that a broad focus encompassing all types of retirement savings is required. Advocis has examined existing barriers to establishing and maintaining pension plans and incentives to encourage small and medium sized employers to participate in pension plans. We have looked at the important aspects of the retirement income system in Canada and offer some practical solutions for improvement. Last September Advocis commissioned a study entitled "Encouraging

Small and Medium Sized Firms to Participate in Pension Plans"[1]. The study examined barriers to establishing and maintaining pension plans and incentives to encourage employers to participate in pension plans. The report makes practical recommendations to support the establishment of more pension plans and higher retirement incomes for Canadians.

The study concluded that the most appropriate type of employer sponsored pension plan is a defined contribution plan, especially for small and medium sized business enterprises. Public policy should focus on how to improve the regulatory environment for such plans. Indeed, Advocis believes that public policy should reinforce the strong financial attributes of all CAP Plans.

There are a number of barriers that prevent employers from establishing CAP Plans and Advocis has a number of recommendations (set out below) to reform the pension and retirement income system so as to remove barriers and create incentives that will improve pension coverage and the retirement income system for all Canadians.

Advocis strongly believes that professional financial advice is needed by the majority of Canadians in order to lead to good consumer financial outcomes, not only in the areas of retirement income savings, but in a whole host of other areas as well such as planning for a child's education and long-term health care needs. Public policy needs to foster an expansive role for professional financial advice in order to ensure that Canadians can meet their retirement income and other financial goals. Canadians should not be expected to serve as their own financial experts but should have the ability to obtain professional financial advice so that they have safe and adequate retirement savings.

Advocis supports a national approach to reform of the retirement income system as this will allow all Canadians to have the same opportunities to save and invest and be adequately prepared for their retirement.

Advocis urges the government to include as a principle that Canadians should have the choice of how they accumulate savings for their retirement.

Solutions should target those at risk of not being able to meet their non-discretionary expenses in retirement. To achieve a standard of living that is similar to that enjoyed during pre-retirement, the measurement of replacement rate of income is generally utilized. It should be stressed that the correct replacement rate is not a one-size fits all answer and depends on what the individual's standard of living was pre-retirement, and what a person's goals, expectations and plans are for their retirement years.

Policy should also recognize that people may choose to retire "early" or may choose to continue to work beyond the traditional retirement age of 65.

Advocis will provide comments on the following questions: 2, 15,16, 23, 25, 26, 27, 29 and 30.

2.2 Advocis' Comments on the Vesting Periods

The current two year 100% vesting rule should be replaced by gradual vesting over a 3-year period from the date of plan enrolment, with 1/3 at the end of the first year, 2/3 at the end of the second year and full vesting at the end of the third year (the employees contributions are, of course, fully vested from the beginning). This would provide employers with an improved incentive to open a pension plan. The employee would have a greater incentive to remain with the company over a longer period, while at the same time, providing some compensation to employees who leave the

[1] Gunderson, Morley and Wilson, Thomas, 2009. "Encouraging Small and Medium Sized Firms to Participate in Pension Plans." Prepared for Advocis: The Financial Advisors Association of Canada.

company before the three-year period. With this approach, employees always receive their money plus a share of the employer's money at termination of employment. Non-vested forfeitures should only be used to offset an employer's current service contributions.

2.4 and 2.5 Barriers and Incentives to Create Pension Plans

We commend the Nova Scotia Pension Review Panel (the "Panel") for including in the legislation as one of its principles that one of the Purposes of the Pension Benefits Act should be "To promote and facilitate the implementation and continuation of pension plans". Advocis is strongly of the view that if barriers to the creation of pension plans were removed and the appropriate incentives were created, then many more employers would sponsor a pension plan for its employees. Please find included below a number of suggestions that will remove barriers and create incentives, including tax incentives.

Advocis would like to stress that what is required is the strengthening of existing means through needed reforms. This would include, but is not limited to, a combination of higher and more flexible tax assisted contribution limits, longer accumulation phases past age 71, deferred and reduced requirements for income commencement and substantially more "user friendly" rules for employer sponsors which will improve the system.

Modernizing pension standards legislation so that complexities and costs to employers are reduced and harmonizing the legislation between provinces, will encourage more employers to offer a pension plan to their employees and therefore increase pension coverage. This will reduce barriers and will likely increase the number of employers offering an employer-sponsored pension plan.

Reducing barriers will improve pension coverage but incentives so as to encourage employers to offer these plans are also required. Otherwise, increased pension coverage will not be as great as it otherwise could be. Governments should explore tax incentives for small and medium sized businesses that choose to offer pension plans to their employees.

Employers should themselves be recognized for their sponsorship of pensions. Employers who are well versed on the issues associated with retirement planning tend to be more interested and we would suggest more inclined to offer benefits to employees.

Advocis strongly believes that tax reforms should be implemented to foster pension coverage. Through tax reforms DC plans can be placed on a more equitable footing with DB plans. There are also reforms to RRSPs that can be made to improve that form of retirement savings. Our recommendations are:

- Contribution limits for CAP Plans and RRSPs should be increased if participants in CAP Plans and RRSPs are to achieve retirement incomes comparable to participants in public sector DB plans. As a first step, contribution limits should be increased to 20% of earned income and the maximum dollar limits should continue to be indexed. Further increases in these limits should be a priority for future fiscal policy.

- While it is recognized that the tax assisted private retirement planning system in Canada creates significant deferrals, ultimately the tax will be paid. Accordingly, administration rule amendments such as: a reduction or change in minimum withdrawal rates; a longer window for deferral, i.e. to age 75 and the ability to defer tax for prescribed pension amounts while still actively employed (ie voluntary private and public pension rollovers) would create larger pools of capital for the individual to supplement their retirement income at a later date, and for governments to ultimately tax.

- Contributions to retirement savings plans should be determined on a life-time average basis in order to not penalize those individuals with fluctuating incomes and individuals whose income increases rapidly later in their working lives. This would allow any earned income in excess of the contribution limit in a year to be carried back or forward to create additional contribution room for years where earned income was below the limit. Any taxable withdrawals from an RRSP or CAP Plan in a year would create future RRSP contribution room. This would allow individuals with career interruptions to make up for years with little or no income by permitting extra contributions in subsequent years of high earnings.

  For DC plans, employees and employers should be allowed to make past service contributions based on prior year's earnings up to the limit of the individual's unused RRSP contribution room.

  This would also allow individuals to draw down their pension savings to finance other needs (as is currently allowed with RRSPs), without permanently impairing their ability to save for retirement.

- Regulators should be reminded that through DB plans, pensioners do not bear the risk of loss of capital that accrues through negative investment returns and inflation. Such is not the case in DC plans.

- The age limit for contributions to retirement savings plans should be increased from age 71 to 75, implemented over a 4-year phase in period given the fact that people are living longer and continuing to work post-retirement.

Advocis recommends the following changes to the OAS and GIS:

- Guaranteed Income Supplement (GIS) recipients should be permitted to claim non-refundable tax credits that eliminate the personal income tax that they would otherwise pay. This would reduce their effective marginal tax rate to 50% - the basic GIS claw-back. This reform would resolve the serious disincentive to saving through RRSPs or DC Plans that currently exists given the high post-retirement effective marginal tax rates.

- The Old Age Security (OAS) claw-back of 15% should be reduced to 10.5 percent, if not abolished. The OAS claw-back creates a dramatic ballooning of marginal and effective tax rates post-retirement. The OAS claw-back is a major deterrent for middle income working Canadians to continue to contribute to society through their work after age 65 and has an adverse incentive effect for retirement savings for some individuals.

15. Investments

Advocis supports legislative reforms suggested by the Panel's Final Report (dated January 27, 2009) in respect of private sector DC plans: "Legislation should permit a plan to require default enrolment of members when they become eligible to join the plan…".

As noted in the Gunderson and Wilson study, default enrolment of employees into pension plans will increase pension coverage rates and is supported by Advocis.

Private sector retirement savings plans should have mandatory enrolment for employees, with opting out provisions, as the default option. This will result in more employees being a member of an employer sponsored pension plan.

16. Safe Harbour Rules

Advocis is supportive of the CAP Guidelines including governance of the investment process. If pension plan committee members and administrators, and CAP sponsors and service providers follow CAP Guidelines, they should be provided with safe harbour protection. Safe harbour protection will encourage more pension plans to be sponsored as the concern over litigation risk will be lessened.

23. Develop a type of passport system for plans primarily administered outside Nova Scotia

The Panel noted the preference for complete harmonization of pension legislation across the country or alternatively, harmonization amongst the Atlantic Provinces. The Panel stated that "Such harmonization would result in less administrative burden and would provide clarity for plan sponsors." Gunderson and Wilson noted that a barrier to the establishment of DC plans is the lack of harmonization of Federal/Provincial regulations since pension regulations are mainly under provincial jurisdiction.

Advocis supports harmonization of pension regulations for DC plans including locking-in rules, to reduce complexities and costs to employers and employees. While harmonization can prove to be difficult given jurisdictional complexities, the public policy goal of improving pension coverage requires that serious efforts be made to strive towards harmonization and that a robust harmonization process should be implemented. We appreciate that each province is free to regulate as it deems appropriate but to the greatest extent possible harmonization of regulations for CAP Plans, including defined contribution plans, should be sought so as to reduce administrative barriers to the employer so that pension coverage will improve.

Existing regulations should be harmonized to the greatest extent possible before consideration is given to provincially sponsored plans or expanding CPP in order that the existing framework can be improved upon rather than creating an entirely new framework. Our comments on a legislated supplemental plan will be set out below.

25. Immediate Vesting

See comment at 2.2 above.

26. Unlocking Rules for Defined Contribution Plans

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.

Advocis believes that the legislation should be harmonized with other jurisdictions and, therefore, should be modified to allow for withdrawals if a non-resident of Canada (in addition to the existing exceptions for small balances, financial hardship and considerably shortened life expectancy).

Advocis would also recommend allowing 25% unlocking at age 55. 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; 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.

Unlocking should not be allowed simply because a member terminates their employment. Such funds can be transferred to a locked-in account and be preserved for use during a person's retirement. If needed for financial reasons, the financial hardship rules can be utilized to obtain access to the funds.

Advocis strongly urges governments to harmonize their legislation with respect to unlocking funds, to the greatest extent possible.

The withdrawal of amounts upon retirement from locked-in retirement accounts should be amended to reflect the fact that interest rates are low, Canadians are continuing to work post-retirement, and are living longer.

27. Dealing with Financial Hardship Rules and Other Unlocking of Pension Issues

Further to the comments above in regard to Recommendation 26, Advocis believes that financial hardship unlocking should remain in the legislation. This will allow those who experience financial hardship, the ability to access their funds and will promote harmonization of the legislation between jurisdictions.

Advocis supports the suggestion in the consultation paper that there be the ability to transfer a certain portion (ie 25%) of the commuted value of a pension plan to a RRIF or LIF at age 55 in order to allow for individual circumstances – such as bridging of benefits to age 65.

29. Promotion of Pensions and Support for Advisory Committees

Advocis does not agree with the Panel's narrow recommendation that the Government should be encouraging employers to sponsor (only) DB pension plans, especially in light of the reality that no DB plan has been created in the Province in the last decade. Instead, the Government should focus on improving the regulatory environment for all pension plans, and especially CAP Plans, including DC plans, as it is these types of plans which are the most appropriate, especially for small and medium sized enterprises.

The Government should also ensure that Canadians are assisted in achieving their retirement income goals through the ability to access professional financial advice. Advocis strongly believes that professional financial advice is needed by the majority of Canadians in order to lead to good consumer financial outcomes, not only in the areas of retirement income savings, but in a whole host of other areas as well such as planning for a child's education and long-term health care needs.

30. New Pension Plan

Advocis believes that governments should implement reforms to the existing private sector pension and retirement savings system (Pillar 3) before implementing any new retirement savings structure.

Advocis is not in favour of a government legislated supplemental pension plan as described in the Panel's Final Report that does not allow for a level playing field with the private sector and that may crowd out existing retirement savings options for consumers and employees.

The costs to set up and run the plan will be significant for Nova Scotia (or other provinces if they join) taxpayers, including those who do not wish to participate in such a plan. Such costs should not be incurred at this time before allowing reforms to the existing system to be implemented.

Advocis does not, at this time, support expansion of the CPP as a way to improve retirement income adequacy for future Canadian retirees. Advocis urges the government to allow private sector pension reforms to be implemented and given a chance to succeed prior to giving serious consideration to changes to Pillar 2 (CPP) of the retirement income system.

In addition, Canada's deficit situation and the existing tax burden for employees and employers does not support the imposition of an additional tax burden on employers or employees that would be required to expand the CPP.

Advocis strongly supports reforms to the regime for CAP Plans, as these plans are the best type of pension plan for small and medium sized enterprises. The change from DB to DC plans and the growth of CAP Plans reflects their attractiveness.

We also support tax reforms to RRSPs for those Canadians who utilize this form of retirement savings, as set out above, along with the above-noted reforms to OAS and GIS.

We appreciate the opportunity to provide our comments to the government as it considers reforms to the retirement income system.

Yours sincerely,

Greg Pollock
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Chair, National Board of Directors