



November 8, 2013

Via email: leah.fichter@gov.sk.ca.

Leah Fichter
Director, Pensions Division
Financial and Consumer Affairs Authority of Saskatchewan
Suite 601
1919 Saskatchewan Drive
Regina, SK S4P 4H2

Dear Ms. Fichter,

Re: Consultation Paper – Pooled Registered Pension Plans

I am writing on behalf of the Canadian Bar Association's National Pensions and Benefits Law Section (CBA Section) regarding the consultation paper on Pooled Registered Pension Plans issued by the Financial and Consumer Affairs Authority of Saskatchewan (FCAA) on September 26, 2013 (Consultation Paper).

The CBA is a national association of 37,500 lawyers, notaries, students and law teachers, with a mandate to promote improvements in the law and the administration of justice. The CBA Section comprises lawyers from across Canada who practice in the pensions and benefits area of law, including counsel to benefit administrators, employers, unions, employees and employee groups, trust and insurance companies, pension and benefits consultants, and investment managers and advisors.

For ease of reference, our comments are organized under the specific questions asked in the Consultation Paper.

Question #1 - Principles Followed in Developing the Proposed Saskatchewan PRPP Regulations

Do you agree with the principles on which the proposed PRPP regulations are being developed?

We agree with the principle of harmonization of Saskatchewan PRPP pension plan matters with those of the federal PRPP legislation. We also agree with the harmonization of individual pension rights with the Saskatchewan Pension Benefits Act including preservation of Saskatchewan PRPP members to enjoy the unique pRRIF feature, thus affording them the same retirement options as members of RPPs.

Question #2 – Member Options at Termination or Retirement

Do you agree with the proposed transfer options (LIRA, pRRIF, life annuity)?

The CBA Section would prefer national harmonization in the regulation of PRPPs to simplify administration and to allow for low administration fees for PRPPs. However, if Saskatchewan had more flexible options available for other retirement vehicles than for PRPPs, this may create a

disincentive to choose the PRPP vehicle in Saskatchewan. In the interest of promoting PRPP coverage in Saskatchewan we would not object to the general approach adopted by the FCAA to harmonize PRPP termination and retirement options with the PBA Regulations rather than the federal PRPP Regulations.

Although the federal PRPP Act refers to a “life annuity” at s. 54(2)(c), the Saskatchewan PRPP Act makes the federal PRPP Act subject to both the Saskatchewan PRPP Act and its Regulations. Rather than creating the potential for a confusing hybrid, where LIRAs and pRRIFs are governed by Saskatchewan legislation and annuities are governed by federal legislation, the CBA Section recommends emphasizing simplicity and consistency and suggests drafting Saskatchewan’s PRPP Regulations in a manner consistent with the PBA Regulations concerning annuities.

Do you agree with harmonizing the Variable Benefit with the PBA?

The CBA Section agrees with harmonizing the Variable Benefit available under the PRPP regulations with the PBA (although, unlike the PBA, there would be no spousal waiver requirement where the Variable Benefit transfer option is selected by a PRPP member). However, harmonizing the Variable Benefit with the PBA might create greater administrative complexity, especially in light of transfer options in Regulation 29.2 of The Pension Benefit Regulations, 1993. The CBA Section believes that a high level of regulatory harmonization across the federal, provincial and territorial governments is instrumental in increasing the scale of these plans and achieving low costs.

Question #3 – Fees for Plan Administrators

Do you agree with the principles on which the proposed fee structure is based?

The CBA Section is supportive of the principles of cost recovery, encouraging large PRPPs, and ensuring low costs to plan members.

We believe that PRPPs will have a better chance of succeeding if they are low-cost to plan members. On the assumption that administrators will include the regulatory fees charged to them in the fees charged to plan members, the regulatory fees should be kept as low as reasonably possible. We also believe that the larger the PRPPs are, the lower the costs will be per member. Therefore, we support the principle of encouraging large PRPPs. Other pension plan regulators use a cost recovery approach, so it appears to be appropriate for PRPPs.

The CBA Section is encouraged by the FCAA proposal to harmonize its legislation with the federal PRPP Act. Full harmonization would simplify the PRPP product and reduce the costs.

Are the proposed fees fair?

While there may be no single threshold, where fees are comparable to other substitute products (unit costs in RRSPs, DC and DB plans), they may serve as a guide to competitive pricing. At the federal level, no regulatory fees have yet been established for PRPPs, so there is no objective comparison on whether the amounts proposed by the FCAA are fair. However, for federally regulated pension plans, regulatory fees are established on the basis of cost recovery and number of members, so that smaller plans are not overburdened. The CBA Section recommends this type of fee structure be used as a starting point for PRPPs.

While the one-time application review and licensing fees do not seem too onerous in the abstract, the CBA Section questions whether they will truly reflect the costs incurred. The proposal suggests that agreements may be in place under which FCAA does not review licensing applications, or issue licences or plan registrations and in those cases the one-time fee would be waived in whole or part. The CBA Section supports this harmonization. We expect this would lead to a reduction or elimination of the fees charged by the FCAA.

The annual fee of \$15,000 for each PRPP that contains Saskatchewan plan members may be more problematic. First, the Consultation Paper assumes there will be at least 4,200 members in a PRPP. If so, the per member cost is comparable to a large DC plan, which appears reasonable. However, it is difficult to gauge at this early stage if 4,200 members are realistic. The Saskatchewan Pension Plan, with approximately 32,300 members and total assets of \$220 million might appeal to the same market as the new PRPP. This may decrease the number of Saskatchewan individuals interested in PRPPs.

Second, if the number of early participants is less than 4,200 members, the start-up costs and the \$15,000 annual fee would be borne by the early participants and would be too high. The CBA Section recommends that the FCAA consider setting costs on a "per member" basis, and vary in proportion to the overall size of the PRPP. This way, PRPPs that increase in size beyond a minimum (of 500 members, for example) should pass on savings from greater economies of scale.

Third, the CBA Section recommends that the regulatory fees not be too high so as to create a disincentive to administrators to offer their PRPPs in Saskatchewan. This is particularly so in the early years, where encouragement and incentives may be needed to get plan members to sign up. The CBA Section suggests a waiver of the annual fee for a period of time to allow the PRPP to get established and develop a critical mass of members, so the per member fees will be less significant.

The CBA Section trusts these comments will assist the FCAA in its work. We would be pleased to respond to questions and to provide further information on any of the issues addressed in this letter or on proposed PRPPs in general.

Yours truly,

(original signed by Noah Arshinoff for Lawrence J. Swartz)

Lawrence J. Swartz
Chair, National Pensions and Benefits Law Section