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August 21st, 2018

Via Email: FIN.Pensions-Pensions.FIN@canada.ca

Financial Sector Division
Financial Sector Policy Branch
Finance Canada
90 Elgin Street
Ottawa, Ontario K1A 0G5

Dear Sirs/Mesdames:

Re: Proposals for an Unclaimed Pension Balances Framework

Unifor welcomes the opportunity to comment on the proposals for an unclaimed pension balances framework.

Unifor is Canada's largest private sector union with over 315,000 members. Our union was founded not only on a commitment to achieve gains for our members in collective bargaining but also on a commitment to social unionism. In addition to our work as a collective bargaining agent, we participate in public policy discussions on a wide range of issues affecting Canadians, including the regulation of workplace pension plans and regulation of the broader financial sector.

As a national union with members in every major sector of the economy, our members negotiate workplace pension benefits in every jurisdiction in the country. In the federal jurisdiction, we have over 30,000 members in different sectors including transportation, media, telecommunications, and financial services and our members participate in major workplace pension plans including plans sponsored by Air Canada, Canadian National Railway, Canadian Pacific Railway, St. Lawrence Seaway, Brink's Canada, and Bell Aliant.

Unifor National and Local Unions also act as pension plan sponsors (jointly and solely) in pension plans across the country. Our experience in collective bargaining and plan sponsorship contributes to our views on the proposals for an unclaimed pension balances framework.

Principles for an Unclaimed Pension Balances Framework

We inform our submission by considering some key principles that inform our contributions to discussions and consultations on the regulation of workplace pension plans in Canada:

1. Plan administrators should administer pension plans in the best interest of beneficiaries. This principle is enshrined in pension standards legislation and trust law and should inform the development and administration of a framework for unclaimed pension balances.

2. While plan administrators should administer plans in the interest of beneficiaries, regulations should not place unreasonable and counterproductive requirements on plan administrators.
3. The protections and entitlements that pension standards legislation provides to pension plan members should be preserved in the development of ancillary frameworks that impact pension plan benefits.

The need for an Unclaimed Pension Balances Framework

In our response to the review of the federal financial sector framework, we made the case that the federal government should expand the provision of a platform/framework for administering unclaimed bank balances to cover unclaimed balances in registered pension plans. Unifor is among a collection of organizations that noted the need for reform, and indeed there is a consensus among stakeholders that the existing system for managing unclaimed pension balances is burdensome and inefficient.

Our organization encounters the challenges associated with unclaimed pension balances from different perspectives. Like other stakeholders, we have observed that increased mobility in the labour market and the frequency of corporate transactions (acquisitions, mergers, and corporate restructuring) contribute to the challenge associated with unclaimed pension balances.

We regularly receive requests from members (active and retired) for assistance in locating accrued pension benefits earned with a former employer. As we noted in a recent submission to the Canadian Association of Supervisory Authorities (CAPSA), an un-locatable pension plan to an employer, could to the union, be a member who has lost contact with the administrator of their pension plan. In these instances, our union attempts to connect union members with the pension plan administrator.

We are also familiar with the nature of these challenges from the perspective of the plan sponsor. In some situations, pension plans are unable to fully wind-up due to the challenge associated with locating members who retain entitlements in the plan. There is also a significant administrative challenge associated with locating such members and the costs and time associated with these searches can delay and complicate pension plan administration.

By way of overview, here is a summary of the case for the development of a framework for unclaimed pension balances:

1. There is a significant opportunity to reduce administrative burdens on pension plan administrators. Plan administrators have a fiduciary duty to ensure that pension plan beneficiaries are paid their benefits. Meeting this obligation for un-locatable members can be onerous and delay pension plan wind-ups.
2. A framework for unclaimed pension balances could facilitate the more effective use of the available resources towards the goal of ensuring that beneficiaries receive their accrued benefits. The current arrangement for managing unclaimed balances is ineffective, in part, because of the absence of coordination and resource sharing. If a registry is established through the Bank of Canada, there would be an opportunity to collaborate with other federal departments to share data.
3. Action on unclaimed pension balances in the federal jurisdiction could lay the groundwork for a coordinated pan-Canadian approach that integrates and harmonizes regulatory policies and guidelines for unclaimed pension balances across provincial jurisdictions. The challenge associated with unclaimed pension balances is a national one, and a coordinated pan-Canadian approach offers the most effective avenue for finding a solution.

4. An opportunity exists to expand this service to incorporate other retirement savings vehicles. In addition to registered workplace pension plans, the resources dedicated to a framework for unclaimed pension balances could incorporate unclaimed balances of Registered Retirement Savings Plans and Tax-Free Savings Accounts held by financial institutions.

Limiting Risk to Beneficiaries in a framework for unclaimed pension balances

The consultation paper notes that there are currently more than 500 unclaimed pension balances in terminated federally regulated pension plans and that 25 percent of terminated pension plans consists wholly of unclaimed pension balances. While in most instances unclaimed pension balances are likely to be small amounts, it is important that the development of a framework consider unique circumstances. Unlike the case with unclaimed bank balances, transferring pension entitlements (particularly in defined benefit pension plans) to the Bank of Canada is more complex. In developing a framework for unclaimed pension plan balances, the department of finance should consider broadening The Office of the Superintendent of Financial Institution's (OSFI's) considerations for approving the transfer of an unclaimed balance to ensure adequate protections for plan members.

Maintaining Termination Benefits

In a scenario where the existing regulations or regulatory guidance offer protections to members, the unclaimed pension balances regime should not disadvantage the member by allowing for an inferior alternative to that entitlement. Take for example the case of defined benefit pension plan members who have accrued benefits, but as the plan administrator has been unable to locate the members, they maintain their entitlement to termination options required under pension standards legislation. In this situation, the legislation typically entitles the member to a deferred pension as well as transfer options to comparable registered retirement vehicles.

As an alternative to this entitlement to termination options, the proposed approach for unclaimed pension balances would permit a plan administrator to transfer the commuted value of the deferred pension to the Bank of Canada where it would not be subject to any further interest accrual. In some circumstances, particularly where the pension benefit credit is not small, this could disadvantage beneficiaries.

The discussion paper provided limited data on unclaimed pension balances. While our experience suggests that most balances may be small, it also suggests that a minority may be of relatively significant value/size. While the instances of relatively sizable pension benefits remaining unclaimed may be limited, in so far as it is possible, the regulations should ensure adequate protections.

The commuted value of the deferred pension reflects the value of the accrued benefit at the "transfer date." A member, given a change in interest rates, could find that the lump sum amount in their non-interest bearing account at the Bank of Canada is insufficient to obtain an annuity equal to their accrued benefit entitlement from the plan. If a member is entitled to a deferred pension, the administration of unclaimed pension balances shouldn't result in the loss or diminishment of that entitlement.

OSFI has issued instructional guidelines to plan sponsors, which states that if the plan administrator has made appropriate efforts but is unable to locate everyone who has benefits payable from a plan, the administrator may consider the following options:

- Purchase deferred annuities for the former members or beneficiaries;
- Pay funds into the Court in accordance with, for example, provincial trust legislation, if applicable;

- Apply to the court for its opinion, advice or direction;
- Additional options may be available for any former member or beneficiaries of the plan who fall under provincial jurisdiction

In considering whether or not to approve the transfer of an unclaimed pension balance, the regulations should require OSFI to compare the existing options available to plan administrators and OSFI should only approve the transfer if it is clearly in the interest of the beneficiary as there is no loss or diminishment of that entitlement.

Interest and Fees

In the consultation paper, the Department of Finance suggests that while crediting interest could partially compensate owners for the foregone investment and/or interest income they could have earned while the pension plan held their funds, it would increase cost and administrative and operational complexities. The proposal is that no interest would be credited on unclaimed pension balances, in exchange for not charging administration fees when individuals submit a claim or receive a verified claim.

Unifor strongly objects to this proposal. Existing legislation entitles plan members to interest on their unclaimed pension plan assets, and this should be preserved. Notably, upon acquiring the collective unclaimed pension plan balances, an opportunity exists to invest the assets in the interest of the beneficiaries. Prudent investment of the collective unclaimed pension balances could allow for the crediting of interest and cover associated administrative costs. We encourage the Department of Finance to consider this alternative as an option for maintaining the existing entitlement to interest for pension plan members.

Unifor appreciates the opportunity to provide comments on the proposals for a framework for unclaimed pension plan balances.

Sincerely,



Jerry Dias
National President

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