

August 21, 2018

Department of Finance Canada
145 O'Connor Street, #19
Ottawa, ON Canada
K1A 0G5

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

Re: Willis Towers Watson Submission on Proposals for an Unclaimed Pension Balances Framework

Dear Sir or Madam,

Willis Towers Watson welcomes the opportunity to comment on the Department of Finance Canada's Consultation Paper on *Modernization of the Unclaimed Balances Regime and Proposals for an Unclaimed Pension Balances Framework*. Our comments are restricted to Part 2 of the Consultation Paper – Proposals for an Unclaimed Pension Balances Framework.

Willis Towers Watson designs and delivers solutions that manage risk, optimize benefits, cultivate talent and expand the power of capital to protect and strengthen institutions and individuals. Willis Towers Watson employs more than 40,000 colleagues on a worldwide basis, with approximately 450 being engaged in providing services to sponsors of Canadian pension plans. The undersigned have prepared our response with input from others in the company.

We have the following suggestions, using the numbering and headings as found in Part 2 of the Consultation Paper.

2.1. Designated Entity

We support the Department's proposal to designate the Bank of Canada as the custodian and administrator for unclaimed pension balances, which would be listed in the Bank's public online registry.

We also support a permissive (non-mandatory) framework whereby plan administrators could apply to transfer unclaimed pension balances to the designated entity.

2.2. Application to Terminated versus Ongoing Plans

Although we understand the Department's desire to ensure that the number of balances initially transferred to the designated entity remains manageable, we nevertheless recommend including ongoing pension plans in the Framework, from inception. As noted in Alberta Treasury Board and Finance's Interpretive Guideline # 14 – Missing Members, "One of the significant expenses for some pension plans is the maintenance and management of non-locked-in accounts for members who have terminated membership in the plan and have not moved their benefit out of the plan."

Alberta and Quebec, as noted in the Consultation Paper, are examples of jurisdictions where ongoing pension plans are included in an unclaimed property framework.

In Alberta, the rules distinguish between unclaimed property for individuals under the age of 71 and unclaimed property for individuals age 71 and older. For the former, only non-locked-in amounts may be transferred from an ongoing plan to an account under the *Unclaimed Personal Property and Vested Property Act*, subject to a prescribed minimum (\$250 in 2016) and maximum (20% of YMPE in the year of transfer). For the latter, all amounts, whether locked-in or non-locked-in, may be so transferred, subject only to the prescribed minimum. An amount is deemed to be unclaimed if the administrator is unable to locate its owners for at least three years.

In Quebec, all unclaimed amounts must be transferred from an ongoing plan to Revenu Québec regardless of the locked-in status of the benefits. A financial asset such as a pension balance is considered unclaimed if:

- No claims have been made, no transactions have been performed or no instructions have been given with respect to the asset for a period of three years.
- The holder has not found the owner or other right-holder.
- One of the following situations applies:
 - the last known address of the owner or other right-holder is in Québec,
 - the address of the owner or other right-holder is unknown, and the act establishing the person's rights was concluded in Quebec (the asset was acquired in Quebec, for example), or
 - the asset is in Quebec and the owner or other right-holder is resident outside Quebec in a jurisdiction where provisional administration of financial assets is not provided for by law.

To facilitate implementation, we would support limiting initial transfers for members under age 71 from ongoing plans to 20% of YMPE in the year of termination, which is the small benefit unlocking threshold in section 18(2)(c) of the *Pension Benefits Standards Act, 1985* (PBSA). This would alleviate the problem often encountered by administrators that attempt to purchase annuities for unlocatable members with benefit credits below this threshold, as the premiums for doing so are often prohibitive. For unlocatable members age 71 and older, there should be no maximum transfer amount. In either situation, the administrator should be able to apply to transfer assets to the designated entity three years after there has been no contact with the member.

Alternatively, if ongoing plans are not included from inception, we recommend that the Framework be extended to ongoing plans as soon as practicable.

2.3. Transfers to the Designated Entity

We agree that reasonable efforts to locate beneficiaries should be undertaken by plan administrators and that the efforts made should be commensurate with the size of the unclaimed pension balance. We also agree that there should be flexibility in search methods so as not to unduly constrain administrators.

There are few options for conducting unlocatable member searches (currently two private sector service providers, CRA's letter forwarding service, and a Retraite Québec service to locate members whose last known address was in Quebec). Each option has its advantages and disadvantages, and costs vary widely (from \$3 to \$55 per member). The most thorough (private sector) option has excellent success rates, but can be cost-prohibitive for administrators needing to locate a large number of members.

In certain cases, we support prescribing a minimum time period before eligible unclaimed pension balances may be transferred to the designated entity, in order to ensure that appropriate efforts have been

made to search for plan beneficiaries. As mentioned above, for an ongoing plan, we believe that a reasonable minimum period would be three years from the date of last contact. For a terminated plan, there should be no prescribed minimum period; instead, amounts should be transferable after reasonable efforts have been made to locate the member - as waiting three years to fully distribute plan assets would impose additional administrative costs on the plan and possible hardship on plan members waiting for distribution of their payouts on plan windup.

Once the Framework is available to all federally-regulated pension plans, we recommend that OSFI's authorization not be required to transfer unclaimed balances from ongoing plans, as this may add an unnecessary layer of complexity and cost to plan administration. The approval of OSFI is reasonable in the context of a plan windup in light of OSFI's oversight role regarding proper plan funding and final distribution of plan assets; however, we suggest that the limitations in section 26.1 of the PBSA would be sufficient to safeguard the solvency of an ongoing pension plan.

2.4. Information Provision

We generally support providing the proposed items of information and posting the proposed subset of that information publicly, subject to the following exceptions:

- For some unlocatable members, especially those who have been missing for a considerable period of time, a social insurance number may not be available. We therefore recommend that “the social insurance number of the person” be replaced by “the social insurance number of the person or, where unavailable, the employee number of the person”.
- Posting the person's recorded address, the amount of assets related to his or her pension benefit credit and any eligible surplus, could raise privacy concerns as well as a potential for abuse. We therefore recommend that these items not be posted publicly. Instead, it should be sufficient to post the:
 - person's province of residence (i.e., not the complete address), and
 - fact that an unclaimed pension balance is being held by the designated entity relating to the person's entitlement under the named pension plan (i.e., not the actual amount).

2.5. Claiming Funds from the Designated Entity

We agree that the following individuals should be eligible to claim a balance from the Bank of Canada acting as designated entity:

- The owner of the balance,
- Anyone legally representing the owner, such as a person holding a power of attorney or legal mandate to represent the owner, or
- If the owner is deceased, the person(s) entitled to the owner's estate under the terms of a valid will or rules regarding intestacy.

Furthermore, the Framework should be clear regarding who may claim the balances and in what circumstances, with a view to eliminating the possibility of competing claims.

We support aligning the proposed prescription periods for unclaimed pension balances with the framework for unclaimed bank balances. However, we would not object to shortening either or both of the proposed prescription periods, in which case we believe there is no need for a third threshold for “small balances” with a shorter prescription period. We note that, typically, small amounts payable from registered pension plans are in the range of \$3,000 to \$5,000. Small balances of less than \$1,000 are relatively rare.

2.6. Interest and Fees

We support the proposal to neither credit interest on unclaimed pension balances, nor charge administration fees when individuals submit a claim or receive a verified claim. However, were interest credited, we would support charging modest fees only to cover the associated costs, subject to a cap to ensure that small pension balances are not significantly eroded.

2.7. Tax Obligations

We agree that assessing tax when the amount is remitted to the designated entity by the pension plan administrator is a simple, efficient and practical approach to the taxation of unclaimed pension benefits, provided the same rate(s) of federal tax is (are) applied, regardless of the unlocatable member's province of residence. We also agree that accounts should be held by the designated entity (net of tax) as an unregistered account.

In light of the unknown financial circumstances of unlocatable members and possible claimants, we believe that applying the same withholding tax rates as apply to payment of lump sum amounts such as payments for an RRSP (combined federal and provincial) would be appropriate, specifically:

- 10% on withdrawals up to \$5,000 (20% in Quebec)
- 20% on withdrawals between \$5,000 and \$15,000 (30% in Quebec)
- 30% on withdrawals over \$15,000 (35% in Quebec)

We greatly appreciate the opportunity to comment on the Department's Proposals for an Unclaimed Pension Balances Framework, and would be happy to answer any questions you may have.

Sincerely,



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