



April 30, 2010

Mr. Chris Forbes
Federal-Provincial Relations and Social Policy Branch
Department of Finance
L'Esplanade Laurier
15th Floor, East Tower, 140 O'Connor Street
Ottawa, ON K1A 0G5

Dear Mr. Forbes:

Re: Consultation on Ensuring the Ongoing Strength of Canada's Retirement Income System

The Canadian Bar Association National Pensions and Benefits Law Section (CBA Section) thanks you for the opportunity to respond to the Consultation Paper "Ensuring the Ongoing Strength of Canada's Retirement Income System".

The CBA Section is comprised of lawyers from across Canada who practice in the pension and benefits law. Our members represent the full spectrum of interests involved in this area.

Comments on Consultation Questions

Many of the questions raise broad public policy issues. Like other Canadians, members of the CBA Section may have differing perspectives on those issues. However, the CBA Section wishes to express the following overriding concerns:

- As highlighted in the Consultation document, there has been much government attention on reviewing Canada's retirement system. Reviews have been conducted at the federal level, and also by several provincial governments and by the industry itself. These processes do not always lead to the same conclusions.
- The CBA Section is concerned that these various consultations could lead to further delay and confusion, unless all levels of government commit to working together to address retirement issues. In this respect, the Consultation Questions suggested by Finance Canada that address matters for which extensive consultations have already been conducted could take a step backward, rather than progressing towards actual resolutions.
- Pillar 3 is an important part of an individual's retirement planning. Accordingly, we believe that legislation and regulations should facilitate individuals' ability to save, both through Registered Pension Plans (RPPs) and Registered Retirement Savings Plans (RRSPs). Any legislation and regulation that limit the ability of individuals to save for their retirement through RPPs and RRSPs are impediments that should be either removed or relaxed. We

support increased legislative flexibility to allow for expanded coverage through RPPs and increased savings in RRSPs. Increased coverage through RPPs could be achieved through measures such as increasing the allowable contributions and benefits that can be provided through an RPP as well as allowing self-employed individuals to participate in RPPs. Increased savings through RRSPs could be achieved by increasing contribution levels, or by substituting a lifetime cap.

- While several governments are pursuing consultations and reviews of the retirement system and, in particular, pension legislation, there seems little focus on harmonization of legislation. The CBA supports a process by which pension legislation and regulations could be harmonized and simplified across Canada, as it would facilitate the establishment and maintenance of RPPs (see CBA Resolution 10-01-M, attached). The current system provides unnecessary impediments for RPPs with members across several different jurisdictions.

Conclusion

The CBA Section trusts that our general comments will assist Finance Canada in its work. We would be pleased to respond to the legal implications of specific proposals.

Yours truly,

(Original signed by Gaylene Schellenberg for Hugh Wright)

Hugh Wright
Chair, National Pensions and Benefits Law Section

Harmonization of Pension Laws

WHEREAS pension issues are of national importance, concerning federal and provincial regulators, employers, employees, retirees, unions, pension plan administrators, pension fund investment managers, public policy organizations and the public;

WHEREAS pension regulation is multi-jurisdictional, and current pension laws are not harmonized between Canadian jurisdictions;

WHEREAS this lack of harmony results in duplicative or unnecessary regulatory burden and cost, increased administrative costs for pension plan sponsors and unequal treatment of pension plan members in different jurisdictions;

WHEREAS harmonized pension laws would encourage broader pension coverage and enable efficient delivery of pension benefits to plan members, advancing the objective of providing for Canadians in retirement;

Harmonisation des lois sur les régimes de retraite

ATTENDU QUE les questions se rapportant aux régimes de retraite sont d'importance nationale et qu'elles concernent les organismes de réglementation fédéraux et provinciaux, les employeurs, les employés, les retraités, les syndicats, les administrateurs de régimes de retraite, les gestionnaires de caisses de retraite, les organismes de politique publique et le public;

ATTENDU QUE la réglementation des régimes de retraite relève de plus d'une autorité gouvernementale et que les lois actuelles sur les régimes de retraite dans toutes les provinces et tous les territoires du Canada ne sont pas harmonisées;

ATTENDU QUE cette absence d'harmonisation entraîne des fardeaux et coûts réglementaires non nécessaires ou doublés, des frais de gestion accrus pour les répondants de régimes de retraite, et un traitement inégal des participants aux régimes de retraite dans les différents ressorts;

ATTENDU QUE l'harmonisation des lois sur les régimes de retraite encouragerait l'extension de la protection offerte par les régimes et permettrait une distribution plus efficace des prestations aux participants, favorisant ainsi la réalisation de l'objectif de pourvoir aux besoins des Canadiens et Canadiennes lors de leur retraite;

WHEREAS national initiatives are underway to harmonize pension standards legislation across Canada, including a proposed framework agreement by the Canadian Association of Pension Supervisory Authorities (CAPSA);

BE IT RESOLVED THAT the Canadian Bar Association urge federal, provincial and territorial governments to support and promote the harmonization of pensions legislation and regulation across Canada.

Certified true copy of a resolution carried by the Council of the Canadian Bar Association at the Mid-Winter Meeting held in Ottawa, ON, February 13-14, 2010.

ATTENDU QUE divers projets nationaux visant l'harmonisation des lois sur les normes de prestations de retraite sont désormais en cours, dont une proposition d'entente-cadre élaborée par l'Association canadienne des organismes de contrôle des régimes de retraite (ACOR);

QU'IL SOIT RÉSOLU QUE l'Association du Barreau canadien exhorte les gouvernements fédéral, provinciaux et territoriaux à soutenir et à encourager l'harmonisation, dans l'ensemble du Canada, des lois et règlements en matière de régimes de retraite.

Copie certifiée d'une résolution adoptée par le Conseil de l'Association du Barreau canadien, lors de l'Assemblée de la mi-hiver, à Ottawa, ON, du 13 au 14 février 2010.

**John D.V. Hoyles
Chief Executive Officer/Chef de la direction**