



July 16, 2020

Alex Killoch
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Claire Woodcock
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Dear Mr. Killoch and Ms. Woodcock:

Re: Potential Changes to the Pension Benefits Act (Ontario) to facilitate automatic features in pension plans

We are writing today to ask you to consider amending the Employment Standards Act, 2000 (ESA) and the Pension Benefits Act (PBA) to explicitly allow employers to deduct employee contributions from payroll automatically to facilitate auto-enrolment and auto-escalation features in capital accumulation (CAP) retirement plans, which include defined contribution (DC) registered pension plans, group RRSPs and group TFSAs.

About ACPM

ACPM is the leading advocate for plan sponsors and administrators in the pursuit of a balanced, effective and sustainable retirement income system in Canada. We represent plan sponsors, administrators, trustees and service providers and our membership represents over 400 companies and retirement income plans that cover millions of plan members.

The Need for Change

The shift from defined benefit (DB) plans to CAP plans over the last generation has shifted the burden of having adequate income in retirement from employers to employees. Many employees do not understand how much money they will need to retire comfortably or how critical it is under a defined contribution pension plan to save as much as possible as early as possible. Many studies has shown that employees are increasingly concerned about not having enough money in retirement, yet many employees are not taking full advantage of their retirement programs and leaving employer matching contributions on the table or otherwise failing to maximize the possible contributions.

As employers moved to CAP plans, pension plans that included employee contributions and an employer matching component were primarily designed with voluntary member participation with the default being that employees would have zero contributions. This leads to many plans having low employee participation and for those that made the decision to contribute, many are not making the level of contribution needed to receive the maximum match from their employer.

Behavioural research points to three main reasons why employees don't take full advantage of their employer plans:

1. **Poor planning skills:** Many employees are not motivated to take action early in their careers with respect to retirement planning and do not prioritize saving for retirement in their budgets, if they even have a budget in place.
2. **Decision avoidance:** Lack of understanding of retirement plans and investment expertise causes employees to avoid making active decisions and often end up defaulting to a decision of making no contributions to the plan and missing out on the employer matching contributions.
3. **Procrastination and inertia:** It is easy for employees to delay making decisions that are complex and poorly understood but, in many cases, employees who delay making a decision never revisit their choice. This is true for employees even if they don't feel like they are saving enough and say that they want to. This also holds true for employees who join a pension plan at a very low contribution level intending to increase their contributions over time but never do.

Employers have recognized that these issues are causing a lack of retirement readiness for employees and, in many cases, have amended their CAP design to auto-enroll new hires in the plan as part of the employee's new employment contract, but are restricted from applying auto-enrolment or auto-escalating contributions for current employees due to the requirement in the ESA that an employee give explicit consent for employers to make deductions from their wages. This requirement prevents introducing automatic features for existing employees, which essentially defeats the purpose of the features. Even introducing auto-escalation features for new employees is uncertain under the existing legislative regime. In order for these features to be adopted by employers, they need to be easily implemented and applicable to all CAP members.

Proof that Auto-features in DC Plans Work to Improve Retirement Readiness

Auto-features are well known plan design strategies in U.S. DC plans and have been adopted by many employers to improve retirement outcomes for their employees.

Studies published by Vanguard Research in 2018 and 2019 show the positive results of implementing auto-enrollment and auto-escalation design features, with opt-out options, in DC plans.

Since 2007, the adoption of auto-enrollment has tripled to 48% of Vanguard plans and two-thirds of those plans also have automatic deferral rate increases. While many of these plans introduced auto-enrollment for new hires only, over half of Vanguard's plans have recently "swept" non-participating and low participating members into the plan at the current default contribution rate and are applying automatic increases in the future.

The Vanguard studies show that for plans with auto-enrollment, plan participation is 93% compared to only 47% for voluntary plans. In addition, for plans with auto-escalation, less than 20% of plan participants opt out of the automatic increases in contributions. The studies also show that for both voluntary and automatic plans, employees do not tend to change their contribution percentage over time. In fact, 9 out of 10 employees make no changes to their contribution rates or, if auto-escalation is included in their plans, follow the annual increase schedule with no changes.

The effectiveness of auto-features in U.S. DC plans, show that employees' inertia work to the benefit of employees in plan with these auto-features in place.

Another important indicator that auto-features are important to pension plans can be seen in the recently enacted SECURE Act where the contribution cap under 401(k) auto-enrollment safe harbor was increased from 10% to 15%.

The Time to Act in Canada is Now

Advocating for changes to legislation to allow employers to automatically deduct contributions from employee's wages, with an option to opt out, is not new. In fact, in ACPM's May 2008 paper, [Delivering the Potential of DC Retirement Savings Plans](#), changes to legislation across the country was encouraged to promote employers adopting these auto-features to improve retirement readiness.

Since that time, a number of provinces have updated their pension or employment standards to specifically permit employers to deduct pension contributions from employee wages without requiring explicit consent from the employees. These provinces include Saskatchewan and Quebec, with both Alberta and British Columbia pension regulators confirming that they believe their respective pension regulations also allow for automatic deductions. We are encouraged that some provinces have taken these important steps but other provinces, including Ontario, have not yet made changes to allow for these auto-features.

We are asking that serious consideration is given to making these changes to the pension legislation in Canada today. These changes are as important as ever or even more critical.

During these difficult times, employees who are participating in their employer CAP plan and may have been contributing an amount to maximize the employer match, may have had to make the difficult decision to lower their contributions due to other financial needs, even if they would not have under normal circumstances. With the knowledge we have of employee behaviour, it could be very challenging to have these same employees increase their contribution to the pre-pandemic level voluntarily once the financial situation stabilizes. Allowing employers to amend their pension plans to include auto-enrollment and auto-escalation features will assist employers in helping employees get back on target for a secure retirement.

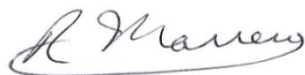
To summarize, we encourage the Ontario government to amend the ESA and the PBA to permit the following features to be used in CAP plans:

1. Auto-enrolment with automatic member contributions set at a level determined by the plan sponsor. Employees could be given the option to opt out of the automatic member contributions through a written waiver once they start.
2. Auto-escalation of member contributions based on age and/or service. Again, members could be given the ability to opt out in writing.

The legislation could specify that these changes be introduced for existing employees with advance notice. Please note that we are suggesting the ESA needs to be amended in order to ensure that these features can be available in all CAPs, not only DC registered pension plans.

ACPM would be glad to discuss this issue in more detail and how such features could be implemented via legislative changes. Please feel free to contact us if we can be of further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Marrero", written in black ink.

Ric Marrero
Chief Executive Officer
ACPM