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The Association of Canadian Pension Management

L'Association canadienne des administrateurs de régimes de retraite



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# **ACPM Response to Saskatchewan Consultation Paper – Non-Residency Unlocking**

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## **FOREWORD**

### **THE ASSOCIATION OF CANADIAN PENSION MANAGEMENT (ACPM)**

ACPM is a national non-profit volunteer-based organization acting as the informed voice of plan sponsors, administrators and their service providers, advocating for improvement to the Canadian retirement income system. Our membership represents over 400 retirement income plans consisting of more than 3 million plan members, with assets under management in excess of \$330 billion.

ACPM believes in the following principles as the basis for its policy development in support of an effective and sustainable Canadian retirement income system:

#### ***Diversification through Voluntary / Mandatory and Public / Private Options***

Canada's retirement income system should be comprised of an appropriate mix of voluntary Third Pillar and mandatory First and Second Pillar components.

#### ***Third Pillar Coverage***

Third Pillar retirement income plan coverage should be encouraged and play a meaningful ongoing role in Canada's retirement income system.

#### ***Adequacy and Security***

The components of Canada's retirement income system should collectively enable Canadians to receive adequate and secure retirement incomes.

#### ***Affordability***

The components of Canada's retirement income system should be affordable for both employers and employees.

#### ***Innovation in Plan Design***

Canada's retirement income system should encourage and permit innovation in Third Pillar plan design.

#### ***Adaptability***

Canada's retirement income system should be able to adapt to changing circumstances without the need for comprehensive legislative change.

#### ***Harmonization***

Canada's pension legislation should be harmonized.

## **Introduction**

We are pleased to comment on the Financial and Consumer Affairs Authority's (Saskatchewan) consultation paper Non-Residency Unlocking.

The Association of Canadian Pension Management (ACPM) is a national, non-profit organization acting as the informed voice of plan sponsors, administrators and their service providers in advocating for improvement to the Canadian retirement income system. Our membership represents over 400 companies and retirement income plans that cover more than 3 million plan members.

ACPM generally supports the concept of amending the regulation with respect to non-residency unlocking. We have reviewed the Consultation Paper: Non-Residency Unlocking and will respond to the questions in the same order as presented.

### **“Question 1: Do you agree the government should amend the Regulations to allow for Non-Residency Unlocking?”**

Yes. ACPM believes that non-residents should be given the option to unlock their pension assets. Non-residents by definition are no longer residents of Canada and depending on the country they now reside in could have difficulty maintaining access to pension assets and registered retirement savings plans (including locked-in versions). By allowing the non-resident an option to unlock (or not unlock) the individual can choose to act in a way that meets their specific circumstances and is in their best financial interest.

### **“Question 2: Do you agree with this provision being mandatory?”**

Yes (but subject to our comments in 5. b) below). Mandatory means that all pension plans and financial institutions would have to allow a non-resident to unlock their assets if the individual meets all the requirements in the legislation. This facilitates the non-resident of having an option (to choose to unlock or not) to act in their best financial interest. Allowing a pension plan or financial institution to opt out of the unlocking legislation could result in some individuals not having access to this option.

### **“Question 3: Do you agree with the requirements (i.e. the confirmation letter from CRA and the spousal waiver form, if applicable) to provide proof to the plan administrator or financial institution of non-residency?”**

Yes. A pension plan or financial institution would then be able to rely on this documentation to determine whether the required conditions are met. The non-resident would then be able to rely on these requirements as can the pension plan or financial institution. This should reduce the administrative burden.

### **“Question 4: Are there any reasons why you feel that a person should be required to be a non-resident of Canada for a period of time (such as two years) before they are allowed to unlock?”**

In general, the ACPM is in favour of harmonized legislation across jurisdictions in Canada. Having a two year waiting period would harmonize with other jurisdictions in Canada. ACPM does not feel that this is a critical provision so we would be fine without the two year provision also.

**“Question 5: What, if any, additional information or requirements would you suggest?”**

The ACPM has two additional comments:

**a) Unlocking to Cash or RRSP**

From the Consultation Paper:

“The payment will be subject to the withholding tax pursuant to the *Income Tax Act* (Canada). (see section 2. Rationale for Non-Residency Unlocking)

“Once unlocked, the funds must be paid to the person, subject to any withholding taxes.” (see section 4. Administration of the Provision)

We are unclear as to whether this allows an individual to unlock the pension and have the proceeds transferred to an RRSP if they so wish.

It would be ACPM’s recommendation that the legislation allow for flexibility for the individual. Thus a non-resident, (assuming they have met all the criteria), would have the option of either:

- a transfer of the locked-in assets to cash and pay applicable taxes: or
- a transfer of the locked-in assets to a registered retirement savings plan.

**b) Member is not Entitled to Portability under Plan Provisions**

From the Consultation Paper:

“The proposed Non-Residency Unlocking provision will be available to persons who:

- are entitled to pension benefits pursuant to the Act;
- are no longer accruing a benefit in the pension plan<sup>1</sup>, and
- are a non-resident of Canada.”

We recommend that the legislation be clear that the unlocking provision not be available to those retired members already receiving a monthly pension from the pension plan. A retired member who is receiving a monthly pension payment could meet the three conditions. Once a pension payment is in payment it should not be able to be altered (except of course based on the terms of form of payment the member chose).

In addition, some plans restrict portability to members such as when a member is entitled to an unreduced pension. We would recommend that, when a plan restricts portability under the terms of the plan, the member not be entitled to unlock pension assets (get access to portability) under the non-residency provisions.

We thank you for allowing us the opportunity to provide comments and, if required, we look forward to providing further assistance to the Financial and Consumer Affairs Authority.