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Federal government begins pension consultations

The federal government has begun a consultation process to gauge Canadians' openness to changing the nation's retirement income system.

Following up on a commitment made at the national pension summit in Whitehorse, Yukon in December 2009, the federal initiative first reviews Canada's performance in providing adequate retirement incomes for pensioners against the performance of other members of the Organization of Economic Co-operation and Development (OECD).

Using that performance as a base of comparison, the government then seeks specific input from the public on a number of retirement income issues. From that, it hopes to develop proposals that will ultimately be used to develop a framework for a federal-provincial consensus on pension reform. (See the January 2010 edition of the *Coughlin Courier* for background.)

In its introductory report on the consultation process, the federal Department of Finance says that when individual retirement savings are combined with the incomes provided by government-

sponsored plans such as the Canada/Quebec Pension Plan (C/QPP), Old Age Security (OAS) and the Guaranteed Income Supplement (GIS), the average disposable income of Canadian seniors amounts to 90.9 per cent of the average income of the general population. That places Canada near the top of the OECD rankings. Only France and Germany post higher relative incomes for their seniors, at 94.5 and 91.5 per cent of their overall populations, respectively.

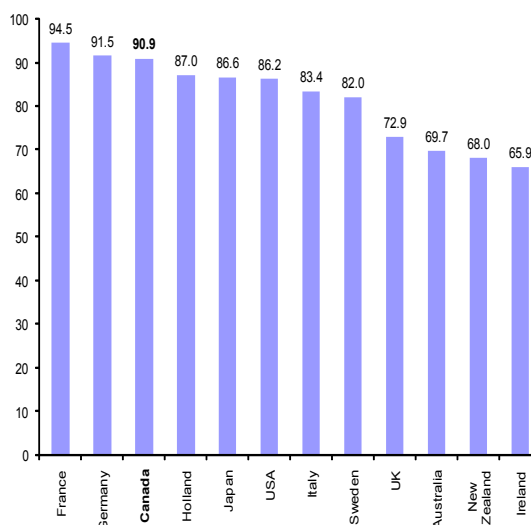
As well, while poverty remains a brutal reality of old age in many countries, the poverty rate among Canada's seniors is 4.4 per cent compared to the OECD average of 13.3 per cent. Some OECD members, such as Japan, Spain, the US, Australia and Ireland report that more than 22 per cent of their senior citizens live below their official poverty lines.

Does the system really need fixing?

That data begs the question: in a country where the average retired worker earns 90 per cent of the income of a worker who is actively employed and where less than five per cent of retired seniors live below the poverty line, does the retirement system need fixing?

The 2008-10 recession may have provided an answer to that question. With

Average income of seniors as a per cent of average population*



(*From *Ensuring the ongoing strength of Canada's retirement income system*, Department of Finance Canada, March 24, 2010.)

...continued from cover

Federal government begins pension consultations

the near collapse of companies such as General Motors and the disappearance of Nortel and other industry leaders, the pension incomes of thousands of Canadian workers have been put at risk. With national pension solvency ratios still at 88 per cent according to the Office of the Superintendent of Financial Institutions (OSFI), the country's pension liabilities exceed its assets by 12 per cent, highlighting a potentially serious weakness in Canada's private pension system.

Compounding the issue is that 8.9 million Canadians — half of all tax filers — do not participate in any pension plan. For those people, the Canada/Quebec Pension Plan and Old Age Security will be their only sources of pension income. And with the baby boom generation nearing retirement, that could result in financial strain for the C/QPP and OAS as well and the economy as a whole as one of the largest segments of the population attempts to live on the income provided by these

two government plans. With the maximum annual income provided by the combined C/QPP and OAS benefits amounting to \$17,413, the result could be a serious decline from today's current income replacement ratios and a dramatic increase in the poverty rate among seniors.

With a weakened private pension system and a government system relied on by too many people to provide the bulk of their future income, the time has come to ask some hard questions about Canada's current retirement income system, the federal government says.

Following is the list of the specific questions for which it is seeking input from the public:

1. *What are the main issues/challenges that Canadians face in saving for retirement?*
2. *What is the appropriate role of governments in supporting Canadians to achieve retirement income?*

3. *Does the retirement income system currently have the appropriate mix of public and private support?*
4. *Are changes needed to further strengthen Canada's retirement income system?*
5. *Should there be more mandatory savings?*
6. *Should individuals be auto-enrolled in any new voluntary savings plan?*
7. *Should increased savings, whether mandatory or voluntary, be locked-in for retirement purposes only?*
8. *Should there be more flexibility and choice with respect to private savings options?*
9. *How should the changes to the retirement income system be financed?*

To submit your views on these issues, email the federal Department of Finance at: ris-consultations-srr@fin.gc.ca 📧

Fast facts about Canada's retirement system*

- The federal government provides \$33 billion in Old Age Security and Guaranteed Income Supplement payments to 4.5 million Canadians each year.
- The OAS pays \$517 per month to Canadians over the age of 65.
- The Canada/Quebec Pension Plan pays \$38 billion in benefits each year to 5.9 million people. In total, 16.3 million workers contribute to the plans.
- The maximum C/QPP benefit is \$934 per month.
- By the end of December 2009, 4.7 million tax-free savings accounts (TFSAs) were opened by Canadians. One-third of contributors were age 65 or older; 25 per cent were between the ages of 55 and 64. Contributions amounted to \$15.8 billion.
- The number of Canadians contributing to a registered pension plan and/or a registered retirement savings plan: 9 million. The number of Canadians receiving an income from a registered pension plan or registered retirement income fund: 3.6 million.
- Total net worth of all Canadian households at the end of 2009, including real estate, financial and other holdings: \$5.9 trillion. Total of that amount in pension assets including registered retirement savings plans, registered pension plans and C/QPP assets: \$1.9 trillion. Percentage of retirement assets to total assets: 32.2 per cent.

(*From *Ensuring the ongoing strength of Canada's retirement income system*, Department of Finance Canada, March 24, 2010.) 📧

Manitoba rewrites its Pension Benefits Act

The Manitoba government will introduce major changes to its Pensions Benefits Act, beginning May 31, 2010.

Called the biggest pension legislation change in 35 years, the new legislation is designed to update Manitoba's pension laws to provide more stability and transparency to pension plans and to meet the needs of an increasingly mobile workforce.

The new regulations include the following:

- the immediate vesting of a pension from the day an employee joins a pension plan;
- allowing employees to work past age 65 and, in turn, receive a higher pension on retirement;
- reducing "excessive pension reductions" when workers retire early;
- allowing phased retirement, where workers may work part-time and

still contribute to their pension without penalty;

- requiring companies employing 50 or more people to form pension committees so that plan members and retirees have greater input in plan administration;
- allowing members and employers to jointly decide on surplus distributions;
- limiting employers' ability to take pension contribution holidays unless their surplus ratios exceed 105 per cent of pension liabilities;
- requiring employer contributions to be made on a monthly rather than quarterly basis;
- ensuring that pension plan options include flexible benefits such as enriched early retirement benefits or cost of living adjustments;
- making it easier for members age 55 or older to unlock up to 50 per cent of their benefits on a one-time basis;

- allowing spouses and common-law partners of deceased members to waive their entitlement to benefit payments in favour of other individuals, such as children; and
- clarification of rules on interest calculations, credit splitting and asset division on the breakdown of spousal relationships.

The new rules have received a mixed reaction. Labour organizations such as the Manitoba Federation of Labour endorsed the legislation while business groups, including the Winnipeg Chamber of Commerce, condemned the provincial government for its lack of consultation and for introducing the program during an economic downturn.

More information on the changes can be found by visiting the Government of Manitoba website at www.gov.mb.ca and keying-in *Pension Benefits Act* on the site's search engine. ☺

LTD payments not CPP deductible

Canada Pension Plan (CPP) contributions do not have to be deducted from long-term disability (LTD) payments, the Federal Court of Appeal has ruled.

In a case involving the Toronto Transit Commission (TTC) and the Ministry of National Revenue, the Court ruled that CPP contributions are not required on LTD plans that operate under administrative services only (ASO) arrangements.

At dispute was the definition of "pensionable employment" in ASO plans. The Ministry of National Revenue contended the LTD payments received by two TTC workers on disability leave constituted *remuneration for pensionable*

employment, and therefore were subject to CPP deductions. The Ministry's position was initially supported by the Tax Court of Canada, which concluded that the CPP payments should have been deducted and remitted through the TTC's ASO plan.

However, upon appeal, the TTC argued that to be considered "employed," an individual has to *perform a service under the terms of an employment contract*. Since disabled workers do not perform any services, their LTD payments should not be considered pensionable.

The Court agreed.

It is unclear whether the federal government will appeal the ruling. ☺



Insurer challenges federal privacy law

A major US insurer is seeking to scrap the federal Personal Information Protection and Electronic Documents Act (PIPEDA).

The State Farm Mutual Automobile Insurance Company, the largest property and casualty insurer in North America, has launched a court action challenging the federal government's constitutional authority to enforce privacy regulations in insurance investigations.

According to the insurer, the federal government exceeded its authority when it intervened in an insurance investigation that involved video surveillance.

The case dates to March 2005 when the company hired private detectives to conduct video surveillance of a man involved in a car accident. When he learned about the surveillance, the man asked State Farm to provide him with the names, addresses and phone numbers of anyone to whom it had disclosed his private information. The insurer refused to provide the information. The man later filed a complaint with the federal Privacy

Commissioner, who then made the same request to State Farm. The company again refused to disclose the information, stating that the privacy commissioner had no jurisdiction over surveillance information.

The State Farm position appears to hinge on the principle that PIPEDA is designed to protect the privacy of individuals during *consumer transactions*. Insurance investigations cannot be described as "*transactions*," the company says. Investigations involving video or other private surveillance are used by insurers when fraud or criminal activity may be suspected. The federal Privacy Commissioner has no mandate or jurisdiction over criminal investigations, the company argues.

The right of an organization to protect itself against possible or suspected criminal activity overrides an individual's right to privacy, State Farm asserts.

Complicating the fact is that the federal government's constitutional jurisdiction over commercial activity in the private sector may be subject to dispute. The regulation of commercial activities in

the private sector tends to fall under provincial jurisdiction. The fact that the federal legislation that created PIPEDA provided for the provinces to enact their own "*substantially similar*" legislation only reinforces the lack of jurisdictional clarity on the privacy issue.

The Privacy Commissioner maintains that transactions frequently cross provincial boundaries and involve call centres or offices in several provincial jurisdictions. Therefore, the federal government's national privacy laws and rulings under PIPEDA apply constitutionally.

As well, the Privacy Commissioner has characterized video surveillance as "*an intrusive act*" and that "*if there are other means to resolve a dispute, they should be explored first.*"

If the federal court sides with State Farm, Canada's privacy laws could be either nullified or require major revision. However, provincial privacy laws would likely remain unaffected.

Watch for more information on this case in future editions of the *Coughlin Courier*. 🐾

Prescription drug use among seniors a "cause for alarm"

Grandma and grandpa are on drugs.

Lots of them.

Almost two-thirds of Canadians over the age of 65 are taking five or more prescription medications, according to the Canadian Institute for Health Information (CIHI). More than 20 per cent of seniors have prescriptions for 10 or more medications and five per cent use 15 or more prescription drugs, the health care research organization says.

"There is some cause for alarm... Five or more drugs used to be a sign of inappropriate prescribing, but times have obviously changed," says Steve Morgan, associate director of the University of British Columbia Centre for Health Services and Policy Research. Even more worrisome, he says, is that there is little co-ordination or tracking of prescription drugs, greatly increasing the risk of dangerous drug interactions among a vulnerable portion of the population.

"Many doctors who are prescribing drug number 10 have no idea what the other nine drugs are," Mr. Morgan warned.

Statins, which are used to treat high cholesterol, are used by more than

40 per cent of seniors, the CIHI says. ACE inhibitors, used for the treatment of high blood pressure, follow with 27 per cent of people over age 65 having prescriptions for those medications.

In total, Canadians spent \$25.2 billion on prescription drugs in 2008, the CIHI says.

While most people age 65 and older are retired, plan sponsors with benefit plans covering retired individuals, or those with a higher than average proportion of workers over the age of 65, should be aware of the potential for a high number of prescription drug claims among that age group. 🐾

“Double” CPP benefit, CLC says...

Canada Pension Plan (CPP) benefits should be doubled, the Canadian Labour Congress (CLC) says.

Speaking at a joint pension forum with the Ontario Federation of Labour on March 27, 2010, CLC President Ken Georgetti called on the federal government to almost double the maximum CPP benefit from its current level of \$934 per month to \$1,635 per month.

“We need to raise the pension floor from a poverty level of \$12,000 per year to a liveable \$24,000 for retirees of the future,” Mr. Georgetti told the unions’ delegates. *“We all agree that Canadians face a retirement crisis that must be solved... The obvious solution to retirement security is simple: double the Canada Pension Plan benefits so that all workers can retire with security.”*

Under the CLC plan, CPP contributions for both employees and employers would increase from the current level of 4.95 per cent of

income each to the yearly maximum pensionable earnings (YMPE) limit (currently \$47,200), to 7.95 per cent each. In effect, joint employee-employer contributions would increase from 9.9 per cent of income to 15.9 per cent. The rate increase would be phased in over a seven-year period, similar to the way the current contribution maximum was introduced in the 1990s.

In addition, the CLC president called for a 15 per cent increase to both the Old Age Security (OAS) and the Guaranteed Income Supplement (GIS) benefits. Currently, the OAS benefit amounts to \$516.96 per month. The maximum GIS payment is \$652.51 for a single person.

He also urged the development of a national pension insurance plan to better protect pension incomes of plan members during corporate bankruptcies.

“We insure our lives, our homes, our vehicles, our jobs but not our pensions. That doesn’t make any sense. It must change,” he said.

In his address, Mr. Georgetti criticised proposals calling for the liberalization of contribution limits of registered retirement savings plans or the transferring of basic retirement income security to the private sector.

“We do not need to expand, extend or depend on registered retirement savings plans,” he stressed. *“They just haven’t worked. Only one Canadian taxpayer in four made any contribution to an RRSP in 2008. We do not need to tell Canadians that the burden of saving for their retirement is an individual responsibility. The banks, financial institutions and investment advisors are the ones who have put the retirement security of generations of Canadians at risk.”* 🐼

...Not so fast, says CLHIA

While Canada’s retirement system may need some fixing, it is far from broken, the Canadian Life and Health Insurance Association (CLHIA) says.

According to the association representing Canada’s largest life and health insurers, Canadians need more incentive to save for themselves rather than more government intervention.

“This country does not need another big government savings plan,” says CLHIA President Frank Swedlove. *“We need to expand access and promote the use of workplace-based programs.”*

In a report entitled *Saving More for the Future: An Achievable Goal for*

Canadians, the CLHIA recommends that Canada’s pension legislation be streamlined to encourage wider participation in pensions and group registered retirement savings plans (RRSPs), particularly in the small business sector.

Among its recommendations:

- permitting any employer, including self-employed individuals, to participate in multi-employer defined contribution pension plans;
- requiring all businesses employing 20 or more people to offer their own pension plan, either through a group RRSP or a through multi-employer arrangement;

- locking-in of all employer contributions to group RRSPs; and
- broadening the definition of “earned income” to include business income, rental income, royalties and other income sources most used by self-employed individuals and professionals.

The association suggests that its position is backed by the majority of Canadians, citing a recently published Environics poll where 90 per cent of respondents said that workplace pensions or group RRSPs should be available to all working Canadians. 🐼

Court backs arbitrators in LTD dispute

The Ontario Superior Court of Justice has ruled that it has no jurisdiction to rule in a case involving a dispute between a nurse and the Hospitals of Ontario Disability Income Plan (HOODIP).

The case involved a disabled nurse who was receiving approximately \$3,000 in long-term disability (LTD) payments. When she retired at age 65, she started to receive other retirement benefits including the Old Age Security (OAS), Canada Pension Plan (CPP) as well as a pension from her former employer, a large Toronto hospital. However, the insurer that provided the LTD benefits reduced her LTD payments by these amounts. The nurse then began a class action suit, using her situation as the representative case.

In its argument, the insurer said the Court did not have jurisdiction to rule on a dispute involving HOODIP and the LTD payments since the problem amounted to an

interpretation of the terms of the collective agreement. Such disputes fall under the exclusive jurisdiction of a labour arbitrator. The insurer's position was supported by the Ontario Hospitals Association (OHA).

The nurse responded that the dispute involved insurance law and that arbitrators do not have authority to resolve such issues.

The Court ruled in favour of the insurer and the OHA citing Section 12.07 of the collective agreement, which stated that *"any dispute that may arise concerning a nurse's entitlement to short-term or long-term benefits under HOODIP may be subject to grievance and arbitration under the provisions of this agreement."*

In the ruling, the judge noted that the case amounted to a dispute over the terms of the benefits obtained through the collective bargaining process, despite the fact that it involved an insurer that was not a

party to the collective agreement.

"The Supreme Court of Canada has adopted a liberal position according to which grievance arbitrators have a broad exclusive jurisdiction over issues relating to conditions of employment if it can be shown that they have a connection to the collective agreement," the Court ruled. *"This is a dispute that has an express connection to the conditions of employment."*

The Court went on to cite previous cases where the involvement of third parties such as insurance companies, failed to override either the authority of collective agreements or the jurisdiction of arbitrators.

For plan members and plan sponsors, this ruling should reinforce the power of collective agreements and their dispute resolution mechanisms. Attempts to resolve problems or issues of interpretation should first involve the tools of the agreement before litigation. ☛

Benefits costs jumped by 10 per cent in '09

Employee benefits costs have increased by 10 per cent over the past year, the Conference Board of Canada says.

In its first-ever survey of employer-sponsored benefit plans, the Conference Board warns that benefit programs may not be sustainable over the long term if costs continue to increase at that rate.

With the emergence of the economy from recession, employers may look to benefit programs to help recruit employees and contain costs, the organization says. However, *"structural issues"* such as the aging population, increased utilization rates and higher drug costs could fundamentally alter the benefits landscape, it warns.

While 78 per cent of the 225 companies surveyed by the Conference Board said they had well-developed benefits strategies, only 14 per cent believed their benefits programs were effective in meeting those strategies, according to the

research organization. Areas such as the enhancement of employee health, increasing employee engagement on benefit issues and cost containment all required improvement, the survey indicated.

As costs accelerate at an annual 10 per cent rate, the priority will be for companies to ensure that their employees understand the value — and costs — of their benefits, the Conference Board says.

On average, employee benefit plans comprise 19.9 per cent of gross annual payroll, according to the survey. Of that, Canada/Quebec Pension Plan, Employment Insurance, workers' compensation and other government-required payments make up one-third of total benefits costs.

The report, entitled *Benefits Benchmarking 2009: Balancing Competitiveness and Costs* can be found on the Conference Board of Canada website at: www.e-library.ca. ☛

Health and medical insurance required for travel in Cuba

The government of Cuba has announced that, effective May 1, 2010, all travellers arriving in that country will be required to provide proof of health and medical insurance coverage. Otherwise, they will be required to purchase coverage from Cuban authorities.

The insurance should be purchased in the traveller's home country from the Cuban government's approved list of insurance providers. Those arriving in Cuba without proper coverage will be required to purchase it from Asistur S.A., a Cuban travel insurance provider. Asistur S.A. has facilities available at arrival centres in Cuban airports and ports so that incoming passengers may purchase the appropriate coverage.

The following lists the Cuban-approved travel insurance carriers in Canada:

ACM

Assured Assistance

CanAssistance

Desjardins (Sigma-Assistel)

Fox Flight

Global Excel (including Medi-Select, Viator/ETFS)

Health Insurance Division

ICMS-Worldwide Emergency Assist (Toronto)

John Ingle Insurance

Keewatin Air

Magnus Poirier

Medical Services Association

Mondial Assistance

Poltrutt & Smith

Sigma-Assistel

Sky Service-FBO Inc.

World Access Canada

World Travel Protection

Worldwide Mediclaim

If your benefit plan includes out-of-country travel insurance, please check your plan booklet or your travel insurance identification card to confirm whether you are covered by one of these organizations. If you are not covered, contact Coughlin Individual Financial Services Consultant **Jackie Moulton at 613-231-2266, Extension 251 (toll-free 1-888-613-1234, Extension 251), or, email jmoulton@coughlin.ca** to make the necessary arrangements.

For more information, contact the Cuban embassy in Canada at:

Embassy of Cuba
388 Main Street
Ottawa, Ontario K1S 1E3
Phone: 613-563-0141 📞



Fast facts

- An Ipsos Reid survey indicates that Canadians aged 50 and older have channelled approximately 25 per cent of their retirement savings into guaranteed investment certificates (GICs), high interest savings accounts and other low-yielding investments. In total, more than \$300 billion have been set aside in low risk funds.
- Almost six out of 10 Canadians feel there is no appropriate age to retire and that the decision to retire should be a personal choice, according to the 20th Annual RBC RRSP Poll. In total, 57 per cent of the 1,457 adults surveyed felt that retirement should be up to the individual, with 31 per cent indicating “they will never retire.” The average retirement age for Canadians is 62.
- More than 69 per cent of the 1,001 Canadians surveyed in a Nanos Research poll believe that private pension plans will have to reduce their benefit payouts in the future. Despite that number, only 12.5 per cent indicated that the strengthening of the pension system was their top concern. Job creation was listed as the top concern, garnering 38 per cent of survey responses.
- The average employer contribution to defined contribution pension plans in 2009, according to the *Benefits Canada 2009 Capital Accumulation Plan Benchmark Report*: 4.6 per cent of salaries. The average employer contribution to group registered retirement savings plans (GRRSP): 4.3 per cent of salaries.
- Percentage of defined contribution pension plan members that have maximized their plan contributions, according to the *Benefits Canada 2009 Capital Accumulation Plan Benchmark Report*: 80. Percentage of GRRSP members that have maximized their plan contributions: 85.
- Liberal Senator Art Eggleton has tabled a bill that will amend the Bankruptcy and Insolvency Act and Companies’ Creditors Arrangement Act to move workers on long-term disability from *unsecured creditor* to *secured creditor* status during corporate bankruptcies. While Canada’s Senate can initiate legislation, private members’ bills originating from that body are seldom passed by both the Senate and House of Commons.
- The average annual returns of the top nine Canadian public sector pension funds over the past 10 years: 5.5 per cent. Average returns of the top eight US public sector funds: 3.2 per cent. Average annual variance: 2.3 per cent. Percentage difference in compensation levels paid to Canadian fund managers over their American counterparts: 200 per cent.
- Need to boost the returns on your retirement or pension portfolio? Invest in sin. According to *The Price of Sin: The Effects of Social Norms on Markets* published by two professors from Princeton University and New York University, investors who buy “sin” stocks, companies involved in alcohol, tobacco and gaming, enjoy a 2.5 per cent higher annual return than those that invest in comparable companies with no “sin” component.
- The Prince Edward Island (PEI) Human Rights Commission has overruled a University of PEI policy that forced its employees to retire at age 65. Under the ruling, the university will be required to reinstate six employees who were forced to retire since 2005. Reinstatement provisions include salary, benefits and pension credits.
- As part of its new austerity management program, the government of Greece will move its government pension qualification age to 63 from 61, beginning in 2015. Incentives to encourage early retirement will also be discontinued, starting in 2013. The move spawned widespread protests throughout the country. 🇬🇷



PPN update

Greenbank Pharmacy has joined the Coughlin & Associates Ltd. Preferred Provider Network (PPN). Their address is: 139 Greenbank Road in Nepean. Phone: 613-680-2497 🇨🇦

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