July 29, 2015

Mr. Rick Hancox
Chief Executive Officer
Financial and Consumer Services Commission
225 King Street
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Fredericton, NB
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By email: rick.hancox@fcnb.ca

Updating Pension Regulations to Promote Retirement Income Sustainability

Dear Mr. Hancox:

I am writing on behalf of Canada's life insurance industry to recommend a simple regulatory amendment to reduce the risk that former members of pension plans regulated under New Brunswick law will outlive their retirement savings.

This recommendation is consequential to changes to the federal *Income Tax Regulations* that were proposed in the 2015 federal budget, and which received Royal Assent on June 23, 2015. These changes are incorporated by reference in pension regulations in all provinces except New Brunswick. In contrast, New Brunswick's Regulation 91-195 explicitly incorporates text from an earlier version of the federal measures. The operation of the particular measures is described below.

We recommend that New Brunswick amend Regulation 91-195 to (i) reflect the updated formula and factors contained in the new federal measure and, ideally, (ii) incorporate the updated federal provision by reference, thereby ensuring harmonized rules with the rest of Canada in the future.

Established in 1894, the Canadian Life and Health Insurance Association (CLHIA) is a voluntary non-profit association with member companies accounting for 99 per cent of Canada's life and health insurance business. As providers of record keeping and investment services to approximately two-thirds of registered pension plans in Canada and a significant proportion of personal retirement plans, CLHIA members are committed to providing low-cost and efficient management of retirement assets for Canadians. Canada's life insurance companies strongly support harmonization of pension law in order to minimize compliance and operating costs and to enhance benefits payable to pension plan participants throughout Canada.

The specific concern of this letter relates to individuals who terminate membership in a pension plan subject to New Brunswick's *Pension Benefits Act*. The liquid value of the terminated member's entitlements under the pension plan (the "commuted" value) may be transferred to a Life Income Fund (LIF)[1] for the terminated plan member, where it can then be used, subject to prescribed limits, to provide a retirement income to the terminated plan member.

The proportion of a LIF's assets that must be paid out each year (the "minimum amount") varies by age and increases over time. In New Brunswick, the minimum amount equals the start of year value of the assets in the LIF divided by the number of whole years remaining until the former pension plan member attains age 90 [i.e., assets/(90-age)].

This formula dates back to 1978 and the introduction of Registered Retirement Income Funds (RRIFs) in the federal *Income Tax Act*. Since that time, life expectancies have increased and investment returns have generally decreased, with the result that New Brunswick's minimum amount formula may not provide a sustainable retirement income to former pension plan members. Indeed, the federal *Income Tax Act and Regulations* were amended in both 1993 and 2015 to update the minimum amount calculation for RRIFs to better match required benefit payments to evolving longevity and investment expectations. Neither change has been reflected in New Brunswick's Regulation.[2]

In order to promote sustainable retirement incomes for retirees subject to New Brunswick's pension law, the CLHIA recommends that New Brunswick amend the LIF minimum amount formula in subsection 22(2) of Regulation 91-195 as follows:

> 22(2) Subject to subsections (3), (4) and (5), the amount of income payable under subsection (1) during a fiscal year of a life income fund shall not be more than “M” or less than “m”, where “M” and “m” are calculated using the following formulas:
>
> M = C / F, and
>
> m = C ~~/ H~~ x H
>
> and where
>
> C = the balance of money in the fund on the first day of the fiscal year;
>
> F = the value, on the first day of the fiscal year, of a guaranteed pension, the annual payment of which is one dollar payable on the first day of each fiscal year between the first day of the fiscal year and the thirty-first day of December, inclusive, of the year in which the owner attains the age of ninety years; and
>
> H = (a) for fiscal years beginning before 2016, one divided by the number of years between the first day of January of the year in which the calculation is

[1] A LIF is an individual investment vehicle that is designed to provide flexible retirement income; LIFs are patterned on Registered Retirement Income Funds (RRIFs) established under the federal *Income Tax Act*, which require a minimum prescribed income payment out of the plan each year. Unlike RRIFs, LIFs also impose an annual maximum benefit, in order to ensure that assets are not depleted prematurely. Each province (except Prince Edward Island, which has not proclaimed its pension legislation to be in force) has incorporated LIFs or similar arrangements into their pension regimes.

[2] The current New Brunswick LIF minimum amount factors, together with the historical and current federal RRIF minimum amount factors, are shown in Appendix 1.

made and the thirty-first day of December of the year in which the owner attains the age of ninety years, inclusive, and

(b) for fiscal years beginning after 2015, the minimum amount determined for the year under subsection 7308(4) of the federal *Income Tax Regulations*.

If such amendments are effected before 2016, New Brunswick's Regulation should have the same effect as those in effect in other provinces, since the minimum amount values for 2015 in other provinces were determined before the federal budget was introduced. After 2016, other provinces provisions will automatically use the updated formula referenced in (b) above.

CLHIA would be pleased to provide further information should you or your colleagues have questions regarding this proposal. Please feel free to contact me at your convenience, by telephone at 416-359-2021 or by email at rsanderson@clhia.ca.

Thank you for your consideration of this matter.

Yours sincerely,

(Original signed by)

Ron Sanderson
Director, Policyholder Taxation and Pensions

Copy: Angela Mazerolle

Appendix 1: RRIF Minimum Withdrawal Factors

Age	New Brunswick LIF Minimum Factor / Pre-1993 RRIFs	Post-1992 RRIFs	"Qualifying" RRIFs (Transitional factors: post-1992 withdrawals from pre-1993 RRIFs)	Factors adopted per Federal Budget 2015
71	0.05263	0.07380	0.05263	0.05280
72	0.05556	0.07480	0.05556	0.05400
73	0.05882	0.07590	0.05882	0.05530
74	0.06250	0.07710	0.06250	0.05670
75	0.06667	0.07850	0.06667	0.05820
76	0.07143	0.07990	0.07143	0.05980
77	0.07692	0.08150	0.07692	0.06170
78	0.08333	0.08330	0.08333	0.06360
79	0.09091	0.08530	0.08530	0.06580
80	0.10000	0.08750	0.08750	0.06820
81	0.11111	0.08990	0.08990	0.07080
82	0.12500	0.09270	0.09270	0.07380
83	0.14286	0.09580	0.09580	0.07710
84	0.16667	0.09930	0.09930	0.08080
85	0.20000	0.10330	0.10330	0.08510
86	0.25000	0.10790	0.10790	0.08990
87	0.33333	0.11330	0.11330	0.09550
88	0.50000	0.11960	0.11960	0.10210
89	1.00000	0.12710	0.12710	0.10990
90		0.13620	0.13620	0.11920
91		0.14730	0.14730	0.13060
92		0.16120	0.16120	0.14490
93		0.17920	0.17920	0.16340
94		0.20000	0.20000	0.18790
95 and older		0.20000	0.20000	0.20000