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Dear Mesdames:

Re: IIAC Comments on Proposed Pooled Registered Pension Plan (PRPP) Regulations

The Investment Industry Association of Canada (IIAC) appreciates the opportunity to provide comments on the second tranche of proposed PRPP regulations (the Regulations) under the *Pooled Registered Pension Plans Act* (the PRPP Act). Over the past six years, the IIAC has participated fully in retirement savings reform discussions with federal and provincial policymakers. We appreciate your efforts to consult on the proposed PRPPs and hope our recommendations will be taken into consideration as you finalize the proposed Regulations.

General Comments

We remain hopeful that PRPPs can fill a gap in retirement savings options for small businesses, for which administration of defined benefit (DB) or defined contribution (DC) pension plans is too costly, as well as for the self-employed. ***However, as we have stated in our previous correspondence to you on this matter (most recently September 10, 2012), we believe that in order to achieve this goal, two concerns about the PRPP from a public policy perspective must be addressed, through legislative changes to the Income Tax Act (Canada) (ITA) and through amendments to the proposed Regulations***. Specifically, we believe that PRPPs, as currently designed, could have the following negative effects on Canadians' savings that to our knowledge have not been fully assessed or considered publicly.

Overtaxation of lower-income Canadians

Contributions to PRPPs will be free of employer- and employee-paid Canada Pension Plan (CPP) and Employment Insurance (EI) premiums while Canadians and businesses making contributions to group registered retirement savings plans (RRSPs) and direct employer contributions to individual RRSPs are subject to these taxes. This has been justified in the past because money can be withdrawn from RRSPs for non-retirement purposes: our research suggests withdrawals for "unacceptable" purposes are proportionally rare, as is reflected in the appended attachment to a letter sent recently to the House of Commons Finance Committee for consideration of our recommendation for its 2013 Budget Consultations report. The existing tax cost unfairness between pension plans and RRSPs compounds the effect of our second concern, that the low-cost aspect of PRPPs will lead to employer and employee decisions based on their perception of cost alone rather than net value.

Although we realize that this is not directly related to the proposed Regulations, we have urgently requested that the federal government address the unequal tax implications for Canadians saving for retirement, by amending the ITA to remove CPP and EI taxation of employer and employee contributions to Group RRSPs and employer contributions to individual RRSPs for effect January 1, 2013. The gross cost to the government is limited because yearly maximum pensionable earnings cap the CPP and EI collected. The net cost is considerably less (especially as the small minority of people who withdraw from RRSPs could be required to repay CPP and EI not withheld), and will ultimately outweigh the benefits. Leaving more money in the hands of Canadians and Canadian businesses – a government commitment – generates spending (and income taxes) or investment (jobs and taxes).

Cost of loss of financial advice

The lack of a disclosed fee-inclusive advice option in the design of the PRPP program is at odds with the stringent rules, such as know-your-client and suitability requirements, which our member firms and their registered advisors must abide by from an investor protection perspective. The Government's own Task Force on Financial Literacy found financial literacy to be "critical to the prosperity and well-being of Canadians", citing the search for financial advice as a "teachable moment" critical for providing investor education and noting that "the advisory role of financial institutions and financial practitioners should be promoted". Canadians will be exposed to the risks of having no financial advice and not knowing even that they need advice at the times they would benefit most from it (e.g., job loss or change, divorce, extended health issue, death of a parent, estate planning, tax time); and losing a financial advisor's encouragement to put more aside for home-buying, education and retirement. We believe it is reasonable to conclude that, for more than a few, the lack of personal advice will outweigh the benefits of PRPPs.

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To address the access-to-advice problem, the government should restore the best channel to financial education for adults and limit the potential effect on the availability and/or costs of other financial services Canadians need, through the final PRPP Regulations by:

- Specifically confirming that members may unlock all or some of the their PRPP twice yearly for transfer into a locked-in RRSP to provide members with additional or more specialized or customized services needed at different times in their lives.

- Providing a fully-disclosed advice-inclusive option to enhance investors' engagement in their retirement planning and overall financial health.

Comments and Recommendations Regarding Proposed Regulations (Second Tranche)

The recommendations below are made by section number of the proposed Regulations, and not in order of importance. We have omitted a number of technical comments previously made, for example, that a "qualified auditor" would be a more appropriate expert required at plan termination than, for example, an "actuary" – a profession more closely tied to DB plans.

Notices (ss. 22-23)

We believe, based on our members' extensive experience communicating with their clients, that any notices to them must be timely and concise. Against these criteria, we think that the required notices under s. 22 of the Regulations (Advance Notice to Employees) and s.23 (Notice of Plan Membership) will be confusing for the employer and intended members, and duplicative for the administrator.

- We recommend that the employer's notice required by s. 22 of the Regulations include only (i) the employer's intention to enter into a contract with an administrator to provide a PRPP into which employees automatically will be enrolled as members unless they notify their employer within 60 days of being provided with plan details and the enrollment date and (ii) that the second notice with all other relevant details will follow.

- We also recommend that the employer's or administrator's notice under s. 23 of the Regulations to each employee of that class of the plan's membership be amended to add other factors that may be material to a member's original or later decision-making, for example, where employers do not match contributions, that Tax-Free Savings Accounts (TFSAs) may be the more appropriate way for employees to save depending on their circumstances, and information about how the individual can obtain financial advice.

Remittances (ss. 28-33)

While recognizing that the proposed Regulations aim for consistency with the Pension Benefits and Standards Regulations (PBSR), we remain unaware why employ*ee* contributions should not be required to be made within no more than five days of the amounts being deducted so that these contributions may start earning income. With the ease of electronic remittance today, we do not believe that this should be unduly onerous for employers and, with some time until the PRPP Act comes into effect, employers will have time to adjust or could seek a delay.

- We recognize that some employers may use employ*er* and employ*ee* contributions to registered pension plans as a form of working capital and therefore suggest that input from employers be sought on whether to change the remittance date for employ*er* contributions.

- We recommend that remittance dates for employ*ee* contributions to the PRPP be no more than five business days after the end of the period for which the PRPP contributions were deducted and that the Government consult with employers on whether the relevant PBSR and PRPP Regulations should align employ*er*s' contributions to five business days as well.

Locking In (ss. 34-35)

We have written previously and extensively about our concerns regarding the uninformed transfer in of unlocked funds to PRPPs and the inability of PRPP plan members as easily to transfer them out once locked in to the PRPP. We believe that *not* allowing an advice-inclusive disclosed PRPP option and requiring advice to be charged for separately will lead to unintentional negative consequences for some Canadians. It is counter to the conclusions of the Government-appointed Task Force on Financial Literacy that financial literacy is critical to the prosperity and well-being of Canadians. It is in stark contrast to the recent introduction of enhanced client relationship model requirements by the Investment Industry Regulatory Organization of Canada (IIROC), which requires advisors to consider the plan member's time horizon and implement additional suitability reviews of client holdings.

The alternatives for a member seeking to unlock PRPP holdings for certain purposes, but unable to do so, may put the investor in a worse financial position by forcing him or her to borrow or mortgage a property, contrary to his or her best interests. We note that unlocking at age 55 in the PBSR is at odds with the PBSA that refers to within 10 years of normal retirement. As there is no "normal" with the elimination of mandatory retirement at age 65, it would perhaps be best to align all regulations with the eligibility age for the Old Age Security pension and Guaranteed Income Supplement. This recognizes an aging population and limits the need for future legislative or regulatory changes.

We also note that the PBSR requires unlocking forms to be completed by the member and member's spouse or partner. We presume that there are processes in effect to ensure that such requests for a signature are not unreasonably denied.

We recommend that the Government:

- Develop unbiased wording or an online tool, in consultation with knowledgeable individuals and organizations, to help would-be PRPP members assess whether they can afford to lock in some of their savings in light of their non-retirement needs and, where employers do *not* match contributions, that Tax-Free Savings Accounts (TFSAs) may be the more appropriate way for employees to save depending on their circumstances.

- Permit members to unlock all or some of their PRPP twice yearly for transfer into a locked-in registered retirement savings plan to provide members with additional and/or more specialized or customized services needed at different times in their lives.

- Consider, for the PBSR and PRPP Regulations, the right to unlock a PRPP and withdraw amounts in the case of a disability that not only may shorten a lifespan, but also may be demonstrated to affect significantly a member's quality of life (or an immediate family member) without meeting the strict tests of severe financial hardship.

- Confirm that a transfer to another locked-in instrument would not be construed as unlocking, and therefore does not require a spouse's or partner's signature.

Variable Payments (ss. 35-36)

Consistent with our comments on expectations regarding transfers and the growing demographic approaching retirement, we believe that it is critical for members to know when and how transfers will be effected.

- As such, we recommend that annual statements and any other mandatory statements, including age-55 disclosure, be mandated to advise the member of the maximum length of time (if there is a limit) to transfer the member's PRPP holdings to another instrument/offering of a party other than the administrator, as well as the transfer process and expected time between the sending and receipt of assets.

Transfer of Funds (ss. 38-42)

Creating a new program that is low-cost will lead to low-yield/low-risk/low-service and/or higher-risk/low-service options, which at present look likely to be available only through certain financial institutions. This may result in a significant shift in investing patterns and could ultimately disadvantage a material number of investors.

While we do not believe the government intended to facilitate the transfer of retirement savings from an advice-based option to one without, this is essentially what would occur should transfers be permitted between non-pension and pension retirement savings options, especially in light of the fact that CPP and EI tax applies to contributions to Group RRSPs while PRPP contributions will be tax-free.

We also have noted our concern about the unequal competition between government-owned pension providers at a cost advantage that seek to draw RRSP holdings into the pension fund to expand assets. This is compounded when, as in the case of one such plan, they limit transfers out.

In the case of a retirement savings plan holder remaining on the employer's payroll, we have several concerns due to the lack of transfer equivalence between PRPPs to locked-in RRSPs and, apparently, between RRSPs to locked-in PRPPs.

We understand the need for flexibility for individuals and governments; however, we believe that in the absence of any professional financial advice, there could be a substantial shift in savings from existing open plans (RRSPs and RRIFs) to ones that are locked-in. Investors, and in particular small investors and firms, would ultimately be disadvantaged, respectively, by losing access to products and providers. We have not seen analysis done regarding the impact of such a shift on investors, on financial institutions and on the marketplace.

We recommend that:

- If transfers between unlocked RRSPs and (locked-in) PRPPs are to be permitted, regulations should provide for appropriate disclosure before such a transfer is made in the context of the retirement savings holder's broader objectives (home ownership, starting a family, education), and the administrator must obtain a signature documenting informed planholder consent to locking in.

- All offerors of PRPPs and RRSPs must be subject to certain standards to ensure fair treatment of both retirement plan holders and financial institutions/administrators. Specifically, broker-dealers are subject to a 10-business-day transfer requirement via electronic means and all administrators should be required to meet this standard.

- Discussion must take place between policymakers and industry about the implications of unlocking provisions that vary by province, which adds confusion for investors and costs for financial institutions/administrators.

- Federal and provincial governments and industry should work together to develop a simple and consistent transfer authorization form that can be used for registered and non-registered transfers.

- Federal and provincial governments should ensure that government-owned pension funds do not obtain a taxpayer-paid cost advantage at the expense of the private sector that creates the jobs allowing collection of taxes.

Electronic Communications (ss. 43-46)

If costs are to be minimized, we believe that all communications should be electronic unless the member does not have easy access to the internet or equivalent communications or if administrator or employer provide otherwise. As with other employee benefits, such as basic compensation, where the employer determines the method of payment appropriate to its labour force, the employer should be able to deliver the benefit – and co-workers should expect the benefit to be delivered – in the most cost-effective way possible.

- We recommend that electronic communication be the expected/default notice and information delivery method.

Timing and Follow-Up

As mentioned in previous submissions, we would appreciate more clarification on the proposed introduction date of the PRPP program. Our members agree that an implementation timeframe of 12-18 months from the ***final*** release of detailed regulatory guidance is appropriate and reasonable, and as such, introducing PRPPs in 2013 is not a reasonable timeframe. If the government is planning on introducing this program in 2013, financial institutions may not be in a position to immediately offer PRPPs to the public.

- We would like to re-emphasize that the implementation period can be reduced if the PRPP program is designed in a simple, straightforward and uniform fashion that can leverage existing industry platforms and systems.

We will contact you directly to arrange a call to discuss any questions that you might have about our comments.

Sincerely,

"Andrea Taylor" *"Barbara Amsden"*

Cc: Dan Calof, Department of Finance
Yasir Syed, Department of Finance

Attachment 1

Why Group RRSPs and Direct RRSP Contributions Meet Pension Policy Objectives

1. ***No longer a large withdrawal difference between pension plans and RRSPs:*** To the extent that the unlocked nature of Group RRSPs and RRSPs was the policy justification for differential CPP and EI treatment of contributions, we believe it is important to recognize that the government itself introduced changes in 2008 to allow Canadians easier access to their locked-in retirement accounts (LIRAs), which hold money transferred in from DB and DC plans. This suggests that there are acceptable policy reasons for such withdrawals, whether from pensions or RRSPs. Similarly, some provinces allow unlocking of locked-in pension plans, for example, in the following cases:
   - Small balances in the account under a specified threshold amount
   - Becoming a non-resident of Canada
   - Shortened life expectancy
   - Financial hardship
   - Spousal or child maintenance enforcement orders.

2. ***Early withdrawal rarely for the "wrong reasons":*** A Bank of Montreal Financial Group survey[i], conducted by Leger Marketing, identified similar reasons for why Canadians were withdrawing money early from their RRSPs, with only 6% of withdrawals being for reasons that we believe would be considered clearly "unacceptable" from a public policy and/or financial literacy perspective:
   - Emergencies, such as the loss of a job (36%)
   - Paying off everyday debt, such as credit card balances (26%)
   - A house purchase or home renovation (25%)
   - Education – either their own or their child's (10%)
   - Vacation/leisure (6%).

3. ***Withdrawals recontributed:*** A less recent analysis (2005), albeit the most recent Statistics Canada study[ii] we were able to identify, noted that:

   - The percentage of Canadian tax filers taking money out of their RRSP in 2001, at 6.7%, approached double the 3.8% withdrawn in 1993. However, 6.7% is relatively low, particularly as in 2001 the worlds' economies were experiencing a global recession, coming after 10 years of growth – the longest expansion on record in the United States – compounded by the 9/11 aftermath.
   - The same study noted that "While the number of people withdrawing increased [in 2001], the median withdrawal amount fell significantly – by over 46%. The median withdrawal in 2001 was $1,600. In comparison, the median contribution increased 11% to $2,600."
   - In addition to people withdrawing due to unexpected expenses, some may have viewed their RRSP as a means of savings. With the advent of TFSAs three years ago, and assuming they are used appropriately, it is highly likely that short-term saving needs and emergency cash objectives will be achieved through TFSAs in the future.

- The 2005 Statistics Canada study also found that amounts withdrawn generally are re-contributed.

4. ***Other policy objectives:*** It is not clear whether payments as part of the Home Buyers' Plan (HBP) or Lifelong Learning Plan (LLP) are included in RRSP withdrawals in either the Statistics Canada or BMO Financial Group survey. As well, the HBP is limited in application to $25,000 for first-time homebuyers, thus even were numbers for HBPs and LLPs excluded from these analyses, RRSPs might still be "acceptable" sources of funds for homes in higher-cost-housing cities or where an individual is not a first-time homebuyer. And while there continues to be considerable debate in the media and among experts about the benefits of paying down debt versus RRSP benefits, money from an RRSP used for a downpayment on a house or to pay down a mortgage is a switch in, rather than a withdrawal from, retirement assets. Similarly, a maximum contribution of $20,000 to LLPs is not enough for some levels of education that also arguably are an investment that will result in a higher salary and better retirement outcome.

5. ***Non-advised Canadians use tax-efficient savings vehicles less effectively:*** Finance Canada estimates an after-tax yield improvement of about 1.5% on assets held in registered form as compared to when the same assets are held in non-registered form.[iii] An Ipsos Reid 2010 CFM study on the value of advice reported that households with a financial advisor are twice as likely to be holding assets in tax-advantaged (registered) plans as non-advised households. This result was re-confirmed in the 2011 Ipsos study, which reported that in 2011, 84% of advised investors of less than 65 years of age held RRSPs compared to only 36% of non-advised investors in the same age group. Similar results are found for other registered plans. While it may be argued that PRPP's automatic enrollment allows Canadians to avoid this pitfall, lower-income Canadians would be better off saving in a TFSA, not a PRPP. As well, RRSP holders, unlike PRPP holders, will be able to obtain advice not just when amounts are being contributed, but also in terms of saving generally, paying down debt, and tax issues that arise when a person loses his or her job, begins to drawn down savings in retirement, wants help on how to advise children about starting saving and investing, and so on.

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[i] "BMO Study: Troubling Trend Sees Canadians Dipping into Their RRSPs Prior to Retirement", February 26, 2011.

[ii] "Using RRSPs before retirement", Philip Giles and Karen Maser, December 2004 (http://www.statcan.gc.ca/pub/75-001-x/11204/7745-eng.htm).

[iii] Department of Finance Canada, Statistics on RPP/RRSP Participation and Savings, March 31, 2010 (footnote 23).