INVESTMENT DEALERS ASSOCIATION OF CANADA

JOSEPH J. OLIVER
PRESIDENT AND CHIEF EXECUTIVE OFFICER

January 10, 2003

The Honourable John Manley
Deputy Prime Minister and Minister of Finance
Government of Canada
L'Esplanade Laurier
140 O'Connor Street
Ottawa, Ontario
K1A 0G5

Dear Minister,

Re: Transfers of RRIF Plans and the Requirement to Pay Out the Annual Minimum Amount

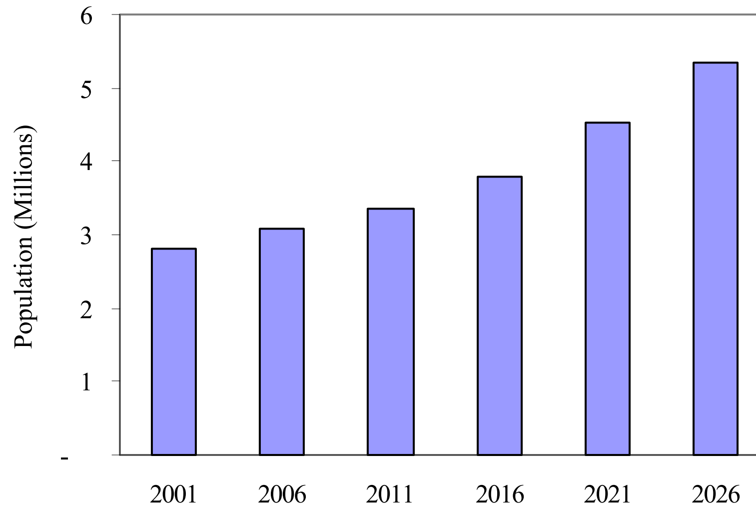
The Investment Dealers Association of Canada, on behalf of its members, would like to address a concern regarding the transfer of RRIFs (Registered Retirement Income Funds) between institutions. It is our hope that some minor modifications to the existing tax legislation could alleviate the concern.

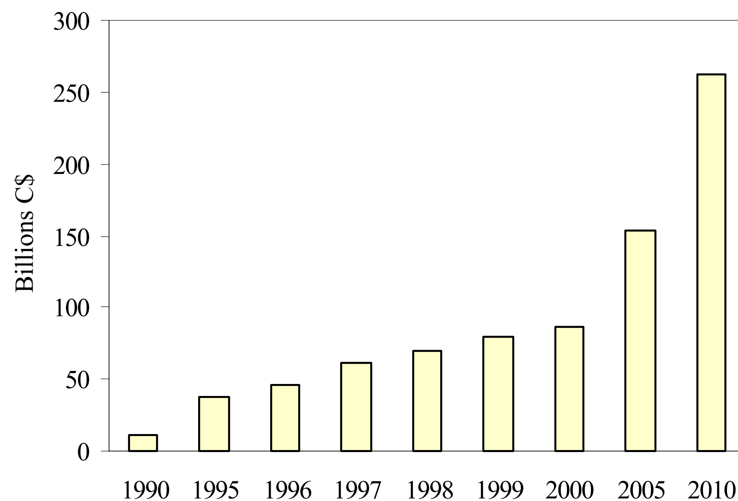
The Concern

Clients holding RRIFs may decide to transfer their account either within or to another institution. During the process of transferring to a different institution, the relinquishing institution must pay out the balance of the current year's payments to reach the minimum allocated payment for the year. While this may be achieved in a number of ways, it may be contrary to the client's wishes and have implications on a client's return on investment.

This requirement is found in the Income Tax Act (ITA), specifically, section 146.3(2)(e) (see Appendix A or the ITA).

It is important to note that this issue affects elderly Canadians, a growing demographic of the Canadian population. This problem, if not addressed, will only increase, as can be seen with projected increases in Canada's senior population and the growth in the RRIF market (as forecasted by Statistics Canada).





There were 10,935 ATON* RRIF transfers during the last 120 business days leading up to Monday January 6, 2003. Based on a 200% growth rate calculated for the RRIF market, approximately 66,000 RRIF transfers could occur annually by 2010. These numbers reflect those transfers between Investment Dealers using ATON, so the number of actual RRIF transfers would be significantly higher.

** ATON is the Account Transfer Online Notification System used specifically by Investment Dealers for transfers between Investment Dealers. This automated system includes various built in edits enabling transfers to be processed quickly while conforming to all rules and regulations applicable to the products.*

A client may choose to transfer their account for any of several reasons, such as:

1. Financial Consolidation: Consolidation of financial assets in order to ease financial management and decrease costs arising from holding several accounts.
2. Loyalty to Investment Executive (I.E.): The I.E. may move firms and loyal clients may want to move accounts with their advisor.
3. Dissatisfaction with their current Institution or Investment Executive.
4. Industry Merger Activity: A client may switch to their secondary financial services provider if their primary one is folded into a third institution. This is generally due to a familiarity with the secondary financial institution and existence of accounts with that firm.
5. Changes upon death, divorce, transfer of responsibilities to power of attorney, or other significant life events.

The Consequences of Current Legislation*:*

To the Client:

Generally, RRIF clients fall into one of two categories.

1. They are dependent on the income the RRIF is going to generate. These clients will either take the funds out as soon as possible in the year, or they will set up regular payments to cover expenses through the year.
2. They are not dependent on the income and wish to defer receiving their payments as long as possible to earn more income inside their RRIF.

Most firms have built their RRIF systems to accommodate all of these client and payment types. The payments are generated by issuing cheques or deposit the funds directly to the clients' bank account.

In brokerage accounts, the clients have many securities from which to choose for their investments. Their portfolios are set up according to their investment profile ("Know-Your-Client") and are normally set up to accommodate their payment needs. When a client decides to transfer their account, they do not expect their payment schedule to be interrupted.

For those who withdraw their funds as soon as possible at the beginning of the year, there is no issue. However, these clients are in the minority. Under the current legislation, the rest, or majority of the clients will be affected and will have one of two choices.

1. Pay out the balance of the minimum immediately, or
2. Leave a balance with the relinquishing institution for continuing payments.

If the payment is made immediately, the funds will either be put into a clients' trading account for further investment, or into their bank account. If the funds are put into a trading account and the client is dependent on the payments for their monthly bills, their flexibility in their

investments is greatly reduced. They must put these funds in very safe, low yielding investments, or the investment may lose money by the time the money is to be withdrawn. The client could then be short for their final payments and need to withdraw more funds from their RRIF account, with resulting tax consequences. If the funds are put into their bank account, there is a possibility that they will lose sight of the fact that their payments are finished for the year, and be caught once again needing more funds from their RRIF.

If the payment is left behind with the relinquishing institution, the client may be subject to 2 administration fees, one for each account. In addition, the client will be receiving statements from 2 places and will have to deal with 2 different brokers. Normally, they will be familiar with one broker (if they transferred to follow them) and one with whom there is no previous relationship as the account was reassigned. This complication will come at a time when simplification in all matters is their goal.

The Consequences of Current Legislation*:*

To the Institutions:

1. Reputational: Due to delays in processing or not, because of the current legislation, being able to meet the client's expectations.

The Consequences of Current Legislation*:*

To the Government:

1. Reputational: Elderly voters are affected by this legislation.
2. Lost tax revenues: As the client cannot use all of the RRIF assets to maximize their earnings in the event of a transfer, taxable income over the lifetime of the RRIF could potentially be lowered.

Recommendations:

We suggest that the Income Tax Act be changed from having the delivering institution complete the minimum payment, to having the delivering institution passing sufficient information to the receiving institution to ensure the payment is made.

This is already in place for RRIF transfers made within the same specimen plan (the identification number assigned by CCRA to issuers of registered plans). To enforce this, the industry already has a process in place. This could be extended to transfers to other specimen plans very easily.

Example:

The delivering institution would send the receiving institution a letter advising that the minimum for the year has or has not been made. Where the payment has not been completed, all information would be listed including, but not limited to, the yearend plan value, indication

of whether the funds come from a Qualifying RRIF or not (current procedures), and all year-to-date payments made. The receiving institution would sign off on the letter, accepting responsibility for the balance of payments.

Conclusion:

As a self-governing body, the Investment Dealers Association of Canada has a number of regulations in place designed to improve all processes affecting client accounts and transactions. We believe that our proposed solution would alleviate the number of complaints our Members currently receive regarding this legislation.

Yours sincerely,

Joseph Oliver

CC: Mr. Kevin Lynch, Deputy Minister, Department of Finance
Mr. Stephen Richardson, Senior Assistant Deputy Minister, Department of Finance
Mr. Bob Hamilton, Assistant Deputy Minister, Department of Finance
Mr. Len Farber, General Director, Tax Policy Branch, Department of Finance

Appendix A

Income Tax Act. 146.3 (2) (e)

(2) The Minister shall not accept for registration for the purposes of this Act any retirement income fund of an individual unless, in the Minister's opinion, the following conditions are complied with:

> (a) the fund provides that the carrier shall make only those payments described in any of paragraphs 146.3(2)(d) and 146.3(2)(e), the definition "retirement income fund" in subsection 146.3(1) and paragraph 146.3(14)(b);
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> (b) the fund provides that payments there under may not be assigned in whole or in part;
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> (c) where the carrier is a person referred to as a depository in section 146, the fund provides that
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>> (i) the carrier has no right of offset as regards the property held in connection with the fund in respect of any debt or obligation owing to the carrier, and
>>
>> (ii) the property held in connection with the fund cannot be pledged, assigned or in any way alienated as security for a loan or for any purpose other than that of the making by the carrier to the annuitant those payments described in paragraph 146.3(2)(a);
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> (d) the fund provides that, except where the annuitant's spouse or common-law partner becomes the annuitant under the fund, the carrier shall, as a consequence of the death of the annuitant, distribute the property held in connection with the fund at the time of the annuitant's death or an amount equal to the value of such property at that time;
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> (e) the fund provides that, at the direction of the annuitant, the carrier shall transfer all or part of the property held in connection with the fund, or an amount equal to its value at the time of the direction (other than property required to be retained in accordance with the provision described in paragraph 146.3(2)(e.1) or 146.3(2)(e.2)), together with all information necessary for the continuance of the fund, to a person who has agreed to be a carrier of another registered retirement income fund of the annuitant;
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> (e.1) where the fund does not govern a trust or the fund governs a trust created before 1998 that does not hold an annuity contract as a qualified investment for the trust, the fund provides that if an annuitant, at any time, directs that the carrier transfer all or part of the property held in connection with the fund, or an amount equal to its value at that time, to a person who has agreed to be a carrier of another registered retirement income fund of the annuitant, the transferor shall retain an amount equal to the lesser of
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>> (i) the fair market value of such portion of the property as would, if the fair market value thereof does not decline after the transfer, be sufficient to ensure that the minimum amount under the fund for the year in which the transfer is made may be paid to the annuitant in the year, and
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>> (ii) the fair market value of all the property;

(e.2) where paragraph 146.3(2)(e.1) does not apply, the fund provides that if an annuitant, at any time, directs that the carrier transfer all or part of the property held in connection with the fund, or an amount equal to its value at that time, to a person who has agreed to be a carrier of another registered retirement income fund of the annuitant, the transferor shall retain property in the fund sufficient to ensure that the total of

(i) all amounts each of which is the fair market value, immediately after the transfer, of a property held in connection with the fund that is

(A) property other than an annuity contract, or

(B) an annuity contract described, immediately after the transfer, in paragraph (b.1) of the definition "qualified investment" in subsection 146.3(1), and

(ii) all amounts each of which is a reasonable estimate, as of the time of the transfer, of the amount of an annual or more frequent periodic payment under an annuity contract (other than an annuity contract described in clause 146.3(2)(e.2)(i)(B)) that the trust may receive after the transfer and in the year of the transfer

is not less than the amount, if any, by which the minimum amount under the fund for that year exceeds the total of all amounts received out of or under the fund before the transfer that are included in computing the income of the annuitant under the fund for that year;