



INVESTMENT INDUSTRY ASSOCIATION OF CANADA
ASSOCIATION CANADIENNE DU COMMERCE DES VALEURS MOBILIÈRES

Ian C.W. Russell FCSI
President & Chief Executive Officer

April 6, 2020

Mr. Eric de Roos
Senior Policy Advisor
Ontario Ministry of Finance
Frost Building S 7th Floor
7 Queen's Park Cres
Toronto, ON M7A 1Y7

Eric.DeRoos@Ontario.ca

Dear Eric:

RE: Electronic Signatures and Designations of Plan Beneficiaries

We have previously written to the Ontario government advocating for changes to the Electronic Commerce Act to obtain certainty that electronic signatures can be used by investors to designate beneficiaries for their Registered Retirement Savings Plans ("RRSPs") or Registered Retirement Income Funds ("RRIFs"). Copies of our previous correspondence are attached.

The Ontario government has not had the opportunity to table the aforementioned amended statutes given a crowded legislative agenda over the past year. However, the ongoing COVID-19 crisis raises the priority to permit electronic signatures for beneficiary documents as clients now have limited mobility to execute documents under quarantine or stay-at-home requirements. The existing rules can make it difficult for clients to obtain "wet" signatures on beneficiary plans, and, as such, constrain our industry to meet essential services to our clients.

We recommend the Ministry of Finance resolve this serious problem at the earliest opportunity, tabling the appropriate amended statutes in the legislature, and provide an interim exemption from the existing "wet" signature requirement.

We would be pleased to meet with you to further elaborate on any part of our request.

Yours sincerely,

Encl.

- IIAC Letter to Office of the Attorney General dated July 9, 2018
- IIAC Letter to Ministry of Finance dated November 28, 2018



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Ian C.W. Russell FCSI
President & Chief Executive Officer

July 9, 2018

Mr. Paul Boniferno
Deputy Attorney General
Ministry of the Attorney General
McMurtry-Scott Building
720 Bay Street, 11th Floor
Toronto, ON
M7A 2S9

Email: attorneygeneral@ontario.ca

RE: Electronic Signatures and Designations of Plan Beneficiaries

Dear Mr. Boniferno,

The Investment Industry Association of Canada ("IIAC") is requesting amendments to Ontario's *Electronic Commerce Act, 2000* (the "ECA") to provide financial consumers in Ontario certainty that electronic signatures are acceptable when designating beneficiaries for their Registered Retirement Savings Plans ("RRSPs") or Registered Retirement Income Funds ("RRIFs").

The IIAC is the national association representing approximately 130 investment dealers in Canada. IIAC member firms administer over \$2trillion in financial assets for Canadians. Among the many types of investment accounts available through our members are RRSPs and RRIFs. Increasingly, Canadians utilize electronic means for opening these accounts and transacting in them. While the regulatory framework covering our industry has been responsive in adapting to the realities of our digital world, current provincial legislation has, in some cases, failed to keep pace. We are writing to recommend amendments to the ECA specifically relating to use of electronic signature for the purposes of designating plan beneficiaries.

Background

Our industry has been supportive of Ontario's adoption of the ECA. The ECA provides much needed clarity on many commercial activities involving electronic or digital communications and documentations between our members and their clients. We have, however, identified an aspect of the ECA that requires further clarification.

It is our understanding that when a plan holder designates their beneficiary for their RRSP or RRIF it is considered a "testamentary dispositions" under Ontario's Succession Law Reform Act, RSO 1990, c S.26 (the "SLRA"). Section 1 of the SLRA further states that testamentary dispositions are included in the definition of a "will". The ECA, however, excludes the following documents:

1. Wills and codicils
2. Trusts created by wills or codicils

These exclusions to the ECA may, therefore, be interpreted as not valid a beneficiary designation made with the application of an electronic signature by the plan holder.

If this interpretation is accurate, then it would require that all plan holders designate their beneficiaries in paper form signed in original ink. Therefore, while Ontarians could be permitted to open an RRSP/RRIF account on-line through the services of our members, they would be required to download, print, sign and submit their beneficiary designation. We believe this unnecessarily detracts from the client's online experience.

To address the above, we recommend that the ECA be amended to clarify that electronic signatures are valid when used for designating a plan beneficiary.

On July 1, 2015 the Ontario government demonstrated its desire to keep the ECA relevant to the current consumer environment by making electronic signatures legally equivalent to signatures on paper documents for real estate transactions. By accepting our request to clarify the use of electronic signatures on the designation of registered plan beneficiaries the government will again show its understanding of Ontarian's transacting in a digital age.

We would be pleased to meet with you to further elaborate on any part of this letter.

Yours sincerely,

A handwritten signature in blue ink, appearing to be "M. Lindsey Park", written in a cursive style.

c.c.: Ms. Lindsey Park, Parliamentary Assistant to the Attorney General



INVESTMENT INDUSTRY ASSOCIATION OF CANADA
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Ian C.W. Russell FCSI
President & Chief Executive Officer

November 28, 2018

The Honourable Vic Fedeli
Ministry of Finance
Frost Building South
7th Floor, 7 Queen's Park Cres.
Toronto Ontario
M7A 1Y7

Dear Minister:

Re: Bill 57 and the Electronic Designation of Beneficiaries under the Pension Benefits Act

Bill 57 *An Act to enact, amend and repeal various statutes* (the "Bill") includes provisions respecting the Pension Benefits Act (PBA). Specifically, schedule 33 of the Bill amends the PBA to permit members, former members and retired members of pension plans to designate their beneficiaries electronically. We conclude Ontario pension beneficiaries will benefit from electronic beneficiary designations but encourage the government to extend this electronic option to all plans covered by the Succession Law Reform Act ("SLRA"), not only pension plans, but also RRSPs, RRIFs, TFSAs and other employee plans.

Our industry administers approximately \$2trillion in financial assets for Canadians, including hundreds of billions of dollars held by Ontarians in RRSPs, RRIFs and TFSAs. While Ontario residents at present can utilize electronic means for opening and investing in these accounts, the exception to the Electronic Commerce Act ("ECA") as to wills and codicils may prevent these plan holders from using an electronic signature to designate their beneficiary. In effect, while Ontarians could open an RRSP, RRIF or TFSA account on-line through the services of one of our members, they would be required to download, print, sign and submit their designation of beneficiary. We believe this cumbersome process undermines the efficiency gains from online transactions and is unnecessary.

We also note that, under the PBA, when people leave employment with a vested pension plan, they may transfer the commuted value to a locked-in form of RRSP or RRIF, such as a locked-in retirement account (LIRA) or a life income fund (LIF). Once the employee transfers his or her pension plan assets to such locked-in plan, the designation of their beneficiary cannot be made electronically. It is inconsistent to allow the pension plan to make an electronic designation of the funds while they are in the pension plan, but not when they are moved to a locked-in plan. This prohibition on electronic beneficiary designations for retirement plans should be removed, by either taking the "wills and codicils" exception out of the ECA, or by amending the SLRA similarly to how the PBA has been amended.

We recommend the Ontario government amend the SLRA and/or ECA such to permit through electronic signature the designation of beneficiary on all plans covered by the SLRA including RRSPs, RRIFs and TFSAs.

Sincerely,

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