

**Consultation Responses**

**"Non-Residency Unlocking"**

**May - June 2014**

**From:** [Pat Zult](#)  
**To:** [Dove, Tami FCAA](#)  
**Subject:** RE: FCAA Consultation Paper: Non-Residency Unlocking  
**Date:** Tuesday, May 13, 2014 9:36:04 AM

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Question 1: Great Western Railway agrees that the government should amend the Regulations to allow for Non-residency unlocking.  
Question 2: Great Western Railway agrees that the provision is mandatory.  
Question 3: Great Western Railway agrees with the requirements to provide proof to the plan administrator or financial institution of non-residency.  
Question 4: Does not have an opinion.  
Question 5: N/A

Sincerely,

**Pat Zult**

Office Manager  
Great Western Railway Ltd.  
(306) 297-2777  
[pat.zult@greatwesternrail.com](mailto:pat.zult@greatwesternrail.com)

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**From:** Dove, Tami FCAA [<mailto:tami.dove@gov.sk.ca>]  
**Sent:** May-12-14 3:39 PM  
**To:** [office2@greatwesternrail.com](mailto:office2@greatwesternrail.com)  
**Subject:** FCAA Consultation Paper: Non-Residency Unlocking

Good day,

Please visit this link (<http://www.sfsc.gov.sk.ca/Pensions-Consultation-Non-Residency-Unlocking>) to find our Non-Residency Unlocking Consultation Document (the Document). The Document details the proposed Non-Residency Unlocking provision, outlines the principles upon which the provision was developed and sets-out the details of the provision. The Financial and Consumer Affairs Authority is interested in receiving your response to the questions outlined throughout the Document.

We look forward to receiving your comments by **June 20, 2014**. Please email your response to myself, Tami Dove, Senior Policy Analyst, Pensions Division ([tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)).

Alternatively, comments may be mailed or faxed to the contact information provided at the end of the Document.

Thank you,

[Tami H. Dove, B.Comm, PPAC](#) | Senior Policy Analyst | Pensions Division | Financial and Consumer Affairs Authority |  
601 - 1919 Saskatchewan Drive | Regina, SK S4P 4H2 | cell: 306.541.9337 | fax: 306.798.4425 |  
[tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)

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**From:** [Kevin Gilroy](#)  
**To:** [Dove, Tami FCAA](#)  
**Subject:** Non-residency unlocking  
**Date:** Tuesday, May 13, 2014 1:39:44 PM

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Hi Tami,

I read the consultation paper and thought everything looked fine. My responses to the questions are below.

1. Yes
2. Yes
3. Yes
4. I don't have a strong understanding of the rules around non-residents working in Canada therefore my comments may not be applicable. However, if they have no intention of returning to Canada to work then I don't think the waiting period is necessary. Alternatively, if their plan is to find more work in Canada and possibly seek citizenship, then the waiting period seems to make sense.
5. I have no further comments.

***Kevin Gilroy, Administration Manager***

Sask Sport Inc.

1870 Lorne St

Regina, SK S4P 2L7

ph: (306) 780-9319

fax: (306) 781-6021

email: [kgilroy@sasksport.sk.ca](mailto:kgilroy@sasksport.sk.ca)

**From:** [Sheryl Armstrong](#)  
**To:** [Dove, Tami FCAA](#)  
**Subject:** Consultation - Non-Residency-Unlocking  
**Date:** Thursday, May 15, 2014 2:56:12 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

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Hi, Tami. How are things going? It is great to see that a change is being considered. I agree totally with this change on all accounts, although I would still like to see some reasonable time period of non-residency to ensure the individual is no longer a resident and not just out of country in order to obtain access to their funds. Perhaps this is something Revenue Canada has in place.

If you require any further clarification from me, just let me know.  
Take care and have a great long weekend.

***HPL***

Sheryl Armstrong, CHRP, PPAC, PCP  
Human Resource Manager  
Hundseth Power Line  
715 47<sup>th</sup> Street West  
Saskatoon, SK S7L 7M1  
Phone: (306) 931-0010  
Fax: (306) 931-7673

**From:** [Lisa Pennington](#)  
**To:** [Dove, Tami FCAA](#)  
**Subject:** FW: FCAA Consultation Paper: Non-Residency Unlocking  
**Date:** Friday, May 30, 2014 10:59:54 AM

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Good morning Tami,

On behalf of Sharon and with respect to the questions outlined in the document, here are our responses:

Question 1: Yes, the government should amend the Regulations.

Question 2: Yes, we agree with the provision being mandatory.

Question 3: Yes, we agree with the requirements, however, CRA should provide this in a timely manner.

Question 4: No, there are no reasons.

Question 5: There are no additional requirements we suggest.

Thank you! I hope this helps.

Regards,

**Lisa Pennington**  
Agriculture Investigations Assistant  
*Evident: Corporate Investigations*  
**"Evident Group of Companies"**  
Ph: (306) 933-3388  
Fax: (306) 933-0114  
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Web: [www.evident.ca](http://www.evident.ca)



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DISCOVER THE TRUTH 

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**From:** Sharon Weir  
**Sent:** May-30-14 10:49 AM  
**To:** Lisa Pennington  
**Subject:** FW: FCAA Consultation Paper: Non-Residency Unlocking

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**From:** Dove, Tami FCAA [<mailto:tami.dove@gov.sk.ca>]  
**Sent:** May-12-14 3:39 PM  
**To:** Sharon Weir  
**Subject:** FCAA Consultation Paper: Non-Residency Unlocking

Good day,

Please visit this link (<http://www.spsc.gov.sk.ca/Pensions-Consultation-Non-Residency-Unlocking>) to find our Non-Residency Unlocking Consultation Document (the Document). The Document details the proposed Non-Residency Unlocking provision, outlines the principles upon which the provision was developed and sets-out the details of the provision. The Financial and Consumer Affairs Authority is interested in receiving your response to the questions outlined throughout the Document.

We look forward to receiving your comments by **June 20, 2014**. Please email your response to myself, Tami Dove, Senior Policy Analyst, Pensions Division ([tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)).

Alternatively, comments may be mailed or faxed to the contact information provided at the end of the Document.

Thank you,

Tami H. Dove, B.Comm, PPAC | Senior Policy Analyst | Pensions Division | Financial and Consumer Affairs Authority |  
601 - 1919 Saskatchewan Drive | Regina, SK S4P 4H2 | cell: 306.541.9337 | fax: 306.798.4425 | [tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)

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**From:** [Don Tettmar](#)  
**To:** [Dove, Tami FCAA](#)  
**Subject:** RE: FCAA Consultation Paper: Non-Residency Unlocking  
**Date:** Sunday, June 01, 2014 11:47:22 AM

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Good day Tami,

As requested, my brief comments on your Non-Residency Unlocking Consultation Document follow:

**Question 1:** Do you agree the government should amend the Regulations to allow for Non-Residency Unlocking?

Yes. Current restrictions are not consistent with most other jurisdictions. As well, the restrictions may create retirement planning or logistical issues as noted in the document. Further, there may be tax issues for recipients, depending on their location, wherein they are prevented from optimizing their tax payable. I should point out that in addition to affecting members who move from Canada, the restrictions may be an issue for those who are non-residents while members, either under current CRA rules, or grandfathered rules.

**Question 2:** Do you agree with this provision being mandatory?

Yes.

**Question 3:** Do you agree with the requirements (i.e. the confirmation letter from CRA and the spousal waiver form, if applicable) to provide proof to the plan administrator or financial institution of non-residency?

I do not agree with the confirmation letter from CRA. This requirement is not entirely consistent with other jurisdictions, which is an issue for the sponsor. It is not a trivial process to obtain such a letter, which is an issue for the member. As well, obtaining such a letter is often complex and not black & white. An individual may be denied a letter because they gifted ownership of their house to a child, as an example. Thus, there could be individuals who had left the country and would benefit from the unlocking, but who would be denied it under this requirement.

**Question 4:** Are there any reasons why you feel that a person should be required to be a non-resident of Canada for a period of time (such as two years) before they are allowed to unlock?

Generally no, but I would rather see a 2 year wait as a requirement than the CRA confirmation letter, if some restrictions are necessary from the province's perspective to avoid abuse of the provision.

**Question 5:** What, if any, additional information or requirements would you suggest?

None.

Yours truly,

Don Tettmar  
DT&A  
#3, 1205 Cameron Ave. SW  
Calgary, AB T2T 0K8  
Phone: 403-2449663  
Cell: 403-7010876  
FAX: 403-2449675  
e-mail: [ddont@shaw.ca](mailto:ddont@shaw.ca)  
e-mail: [ddont@nucleus.com](mailto:ddont@nucleus.com)

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**From:** Dove, Tami FCAA [mailto:[tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)]  
**Sent:** Monday, May 12, 2014 3:43 PM  
**To:** [ddont@nucleus.com](mailto:ddont@nucleus.com)  
**Subject:** FCAA Consultation Paper: Non-Residency Unlocking

Good day,

Please visit this link (<http://www.sfsc.gov.sk.ca/Pensions-Consultation-Non-Residency-Unlocking>) to find our Non-Residency Unlocking Consultation Document (the Document). The Document details the proposed Non-Residency Unlocking provision, outlines the principles upon which the provision was developed and sets-out the details of the provision. The Financial and Consumer Affairs Authority is interested in receiving your response to the questions outlined throughout the Document.

We look forward to receiving your comments by **June 20, 2014**. Please email your response to myself, Tami Dove, Senior Policy Analyst, Pensions Division ([tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)).

Alternatively, comments may be mailed or faxed to the contact information provided at the end of the Document.

Thank you,

Tami H. Dove, B.Comm, PPAC | Senior Policy Analyst | Pensions Division | Financial and Consumer Affairs Authority |  
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[tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)

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June 9, 2014

Tami Dove, Sr. Policy Analyst, Pensions Division  
Financial and Consumer Affairs Authority  
Suite 601, 1919 Saskatchewan Drive  
Regina, SK S4P 4H2

The Canadian Institute of Actuaries (CIA) is the national organization of the actuarial profession. The CIA establishes the Rules of Professional Conduct, guiding principles, and monitoring and discipline processes for qualified actuaries. All members must adhere to the profession's Standards of Practice. The CIA follows its Guiding Principles, including Principle 1, which holds the duty of the profession to the public above the needs of the profession and its members. The CIA also assists the Actuarial Standards Board in developing standards of practice applicable to actuaries working in Canada.

We would like thank you for the opportunity to respond to the consultation paper on non-residency unlocking issued in May 2014. We have chosen to formulate a general response, as opposed to answering the specific questions in the document.

We understand the rationale to offer an unlocking provision to non-residents; however, we wish to offer a note of caution regarding pensions that are in payment. The potential for anti-selection exists in the case where, for example, the recipient of a pension suffers a significant deterioration in health. In that instance, if they then elect to receive a commuted value, it could significantly exceed the total amount they would have received had the pension remained in payment status. This has the potential of creating unexpected additional costs for a pension plan and inequities between groups of pensioners within the same plan.

This issue is particularly relevant for multi-employer pension plans, where a member taking the commuted value can weaken the funding basis for the remaining plan members.

We would suggest that pension plans not be forced to offer this provision to non-resident pensioners. Alternatively, this provision should not be open-ended, and sufficient safeguards should be allowed to be put in place to avoid the aforementioned situations.

The Canadian Institute of Actuaries trusts that the comments provided above will be of value. We thank you for offering us the opportunity to respond.

Respectfully submitted,

Jacques Lafrance  
CIA President

**From:** [Paul Chow](#)  
**To:** [Dove, Tami FCAA](#)  
**Subject:** RE: FCAA Consultation Paper: Non-Residency Unlocking  
**Date:** Tuesday, June 10, 2014 11:52:18 AM

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Hello Tami,

Here are my comments:

1. Agree that the government should amend the Regulations to allow for NR Unlocking.
2. Agree that the provision be mandatory.
3. Agree that CRA confirmation and spousal waiver are sufficient requirements.
4. NR should be at least two years to eliminate temporary leave from Canada.
5. Should get the Regs amended asap as many US residents are attracted to temporary positions in Saskatchewan.

Regards,  
Paul Chow

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**From:** Dove, Tami FCAA [mailto:tami.dove@gov.sk.ca]  
**Sent:** May 12, 2014 5:43 PM  
**To:** Paul Chow  
**Subject:** FCAA Consultation Paper: Non-Residency Unlocking

Good day,

Please visit this link (<http://www.sfsc.gov.sk.ca/Pensions-Consultation-Non-Residency-Unlocking>) to find our Non-Residency Unlocking Consultation Document (the Document). The Document details the proposed Non-Residency Unlocking provision, outlines the principles upon which the provision was developed and sets-out the details of the provision. The Financial and Consumer Affairs Authority is interested in receiving your response to the questions outlined throughout the Document.

We look forward to receiving your comments by **June 20, 2014**. Please email your response to myself, Tami Dove, Senior Policy Analyst, Pensions Division ([tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)).

Alternatively, comments may be mailed or faxed to the contact information provided at the end of the Document.

Thank you,

**Tami H. Dove, B.Comm, PPAC** | Senior Policy Analyst | Pensions Division | Financial and Consumer Affairs Authority |  
601 - 1919 Saskatchewan Drive | Regina, SK S4P 4H2 | cell: 306.541.9337 | fax: 306.798.4425 |  
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**From:** [Bill Turnbull](#)  
**To:** [Dove, Tami FCAA](#)  
**Subject:** Non Resident Unlocking Consultation  
**Date:** Wednesday, June 11, 2014 10:01:42 AM

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Tami:

Our comments appear below.

**Question 1:** Do you agree the government should amend the Regulations to allow for Non-Residency Unlocking?

[Yes, it would be beneficial if Saskatchewan added a non-resident unlocking option similar to that in force in other jurisdictions.](#)

**Question 2:** Do you agree with this provision being mandatory?

[Yes, there is no hardship on the plan and few will use this option. It should therefore not interfere significantly with the intention of sponsors to provide retirement benefits.](#)

**Question 3:** Do you agree with the requirements (i.e. the confirmation letter from CRA and the spousal waiver form, if applicable) to provide proof to the plan administrator or financial institution of non-residency?

[Yes, these requirements are the same as other jurisdictions.](#)

**Question 4:** Are there any reasons why you feel that a person should be required to be a non-resident of Canada for a period of time (such as two years) before they are allowed to unlock?

[Yes, in our view a waiting period would be preferable for two reasons: \(i\) harmonization with other jurisdictions for national plans, and \(ii\) to reduce the risk that temporary non-residence will allow individuals who would not qualify for retirement to access their retirement savings.](#)

**Question 5:** What, if any, additional information or requirements would you suggest?

[No, we don't have any other suggestions.](#)

Thank you for this opportunity.

Bill Turnbull  
General Manager  
CSS Pension Plan  
Direct: 1.306.477.8500

**From:** [j.vanderleest@armoursteelfabricators.com](mailto:j.vanderleest@armoursteelfabricators.com)  
**To:** [Dove, Tami FCAA](#)  
**Subject:** RE: FCAA Consultation Paper: Non-Residency Unlocking  
**Date:** Thursday, June 12, 2014 12:17:39 PM  
**Attachments:** [sigimg0](#)

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Question 1: Do you agree the government should amend the Regulations to allow for Non-Residency Unlocking?

Yes I do

Question 2: Do you agree with this provision being mandatory?

Yes

Question 3: Do you agree with the requirements (i.e. the confirmation letter from CRA and the spousal waiver form, if applicable) to provide proof to the plan administrator or financial institution of non-residency?

Yes

Question 4: Are there any reasons why you feel that a person should be required to be a non-resident of Canada for a period of time (such as two years) before they are allowed to unlock?

I think that there should be a waiting period, but not if it requires additional paperwork requirements.

Question 5: What, if any, additional information or requirements would you suggest? There could perhaps be a penalty if the person returns to Canada.

*Regards,*

*Judy Vanderleest  
President*



----- Original Message -----

Subject: FCAA Consultation Paper: Non-Residency Unlocking  
From: "Dove, Tami FCAA" <[tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)>  
Date: Mon, May 12, 2014 3:38 pm  
To: "j.vanderleest@armoursteelfabricators.com" <[j.vanderleest@armoursteelfabricators.com](mailto:j.vanderleest@armoursteelfabricators.com)>

Good day,

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We look forward to receiving your comments by **June 20, 2014**. Please email your response to myself, Tami Dove, Senior Policy Analyst, Pensions Division ([tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)).

Alternatively, comments may be mailed or faxed to the contact information provided at the end of the Document.

Thank you,

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Thank you.



**SHEPP**

SASKATCHEWAN HEALTHCARE  
EMPLOYEES' PENSION PLAN

June 17, 2014

Tami Dove, Sr. Policy Analyst, Pensions Division  
Financial and Consumer Affairs Authority  
Suite 601, 1919 Saskatchewan Drive  
Regina, SK S4P 4H2

Dear Ms. Dove:

Re: Consultation Paper: Non-Residency Unlocking

We are pleased to comment on the Financial and Consumer Affairs Authority's (Saskatchewan) consultation paper Non-Residency Unlocking.

SHEPP generally supports the concept of amending the regulations with respect to non-residency unlocking. Our responses to the specific questions are provided below.

**“Question 1: Do you agree the government should amend the Regulations to allow for Non-Residency Unlocking?”**

Yes, generally speaking SHEPP agrees that the government should amend the Regulations. The locking-in rules are tied to the Canadian retirement income system. As these individuals have returned to their home countries it is logical that they should have access to these funds so that they are able to invest/spend in a way that is in-line with their home countries retirement income system. In addition, once non-residents return home, they often have difficulty establishing necessary locked-in arrangements as well as accessing the income once it becomes eligible for un-locking.

**“Question 2: Do you agree with this provision being mandatory?”**

The other two exceptions to the locking-in rule, which include shortened life expectancy and small benefit rule, are not mandatory so would seem logical that the same would apply to this exception. However, SHEPP's position on this question is dependent on whether or not this provision is to apply to individuals who would otherwise be denied portability upon termination, under the terms of the Plan (i.e. members who are eligible for an unreduced pension on termination). If the provision does not apply to these members then SHEPP is indifferent to the question. If the provision does apply to these members, then SHEPP does not agree that the provision should be mandatory.

Suite 201, 4581 Parliament Ave., Regina, SK S4W 0G3  
Phone: 306-751-8300 Fax: 306-751-8301  
Toll Free: 1-866-394-4440 E-mail: [sheppinfo@shepp.ca](mailto:sheppinfo@shepp.ca)  
[www.shepp.ca](http://www.shepp.ca)

**“Question 3: Do you agree with the requirements (i.e. the confirmation letter from CRA and the spousal waiver form, if applicable) to provide proof to the plan administrator or financial institution of non-residency?”**

Yes. A pension plan or financial institution would then be able to rely on this documentation to determine whether the required conditions are met which would reduce administrative burden.

**“Question 4: Are there any reasons why you feel that a person should be required to be a non-resident of Canada for a period of time (such as two years) before they are allowed to unlock?”**

SHEPP feels as though the letter from CRA and spousal waiver should be sufficient to enact this provision. A two-year waiting period, on top of the CRA letter and spousal waiver will increase administrative burden.

**“Question 5: What, if any, additional information or requirements would you suggest?”**

The consultation paper states that:

“The proposed Non-Residency Unlocking provision will be available to persons who:

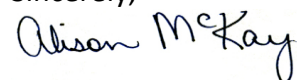
- are entitled to pension benefits pursuant to the Act;
- are no longer accruing a benefit in the pension plan<sup>1</sup>, and
- are a non-resident of Canada.”

We recommend that the legislation be clear that the unlocking provision not be available to the following groups of members:

1. Retired members already receiving a monthly pension from the Plan. A retired member who is receiving a monthly pension payment could meet the three conditions. Once a pension payment is in payment it should not be able to be altered (except of course based on the terms of form of payment the member chose); and
2. Members who would otherwise not qualify for portability options under the terms of the Plan. For example, SHEPP does not allow members to port out their pension benefit upon termination if they qualify for an immediate unreduced pension. Commuting out Rule of 80 benefits could be a significant cost to the Plan.

We thank you for allowing us the opportunity to provide comments.

Sincerely,



Alison McKay  
Chief Executive Officer





June 18, 2014

Via email: [tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)

Ms. Tami Dove  
Senior Policy Analyst  
Pensions Division  
Financial and Consumer Affairs Authority  
Suite 601, 1919 Saskatchewan Drive  
Regina, SK S4P 4H2

Dear Ms. Dove:

**Re: Consultation Paper – Non Residency Unlocking**

I am writing on behalf of the Canadian Bar Association's National Pensions and Benefits Law Section (CBA Section) in response to the consultation paper dated May 12, 2014 on proposed new non-residency unlocking rules under the *Pension Benefits Act, 1992* and its regulations. The CBA Section appreciates the opportunity to participate in the consultation process.

The Canadian Bar Association is a national association of 37,500 lawyers, Quebec notaries, students and law teachers, with a mandate to promote improvements in the law and administration of justice. The CBA Section is comprised of lawyers from across Canada who practise in the pensions and benefits areas of law, including counsel to benefit administrators, employers, unions, employees and employee groups, trust and insurance companies, pension and benefits consultants and investment managers and advisors.

**Question 1: Do you agree the government should amend the Regulations to allow for Non-residency unlocking?**

The CBA Section supports in principle the proposed amendment to the Act introducing non-residency unlocking and its rationale. The introduction conceptually harmonizes with the non-residency unlocking rules in the pension standards legislation of most other Canadian jurisdictions.

Except in Nova Scotia, Newfoundland and Labrador, and Prince Edward Island, where pension standards legislation is not yet in force, federal and provincial pension standards legislation provide unlocking for former members or spouses who become non-residents in accordance with the *Income Tax Act (Canada)* (ITA), for pension benefits under a pension plan or monies in a locked-in vehicle. There are, however, differences in availability. Unlocking in some jurisdictions is only available to pension plans, while in others it is only available to a particular type of locked-in

vehicle. Other jurisdictions allow for both. The eligibility requirements also differ, as some jurisdictions require spousal waiver. Proving non-residency has different requirements as well depending on the jurisdiction.

The consultation paper proposes that non-residency unlocking be available only to former members for their pension under a pension plan or monies in a locked-in retirement account (LIRA). The CBA Section recommends that non-residency unlocking also be available to spouses and include monies in other locked-in vehicles.

**Question 2: Do you agree with this provision being mandatory?**

The CBA Section agrees that non-residency unlocking be mandatory for all pension plans registered under the Act and for all LIRA contracts which hold locked-in pension monies under the Act. The plan administrator (for a pension plan) and the financial institution (for a LIRA contract) must allow the unlocking if a member or the owner elects at their option on proving non-residency.

Non-residency unlocking should also be available to a person entitled to pension benefits payable in accordance with the Act, regardless of where the pension plan is registered (See Item 1 – Purpose of Consultation Paper).

**Question 3: Do you agree with the requirements (i.e. the confirmation letter from CRA and the spousal waiver form, if applicable) to provide proof to the plan administrator or financial institution of non-residency?**

We support the requirements to provide CRA's written confirmation that a person is a non-resident and a spousal waiver form, if applicable.

Obtaining CRA's written confirmation that a person is a non-resident is required under the pension standards legislation of several other Canadian jurisdictions that have similar unlocking provisions. We support including this requirement to help promote consistency and uniformity. Written confirmation on non-residency from CRA would avoid the difficulty a pension plan administrator or a financial institution faces in determining whether the applicant has met the requirements for non-residency for purposes of the *ITA*.

**Questions 4: Are there any reasons why you feel that a person should be required to be a non-resident of Canada for a period of time (such as two years) before they are allowed to unlock?**

To promote consistency and uniformity with other Canadian jurisdictions, the CBA Section supports the requirement for a person to be a non-resident of Canada for two years before they are able to unlock their pension entitlement.

One main purpose of requiring pension funds to be locked in is to ensure a person has access to the funds during retirement. Access to this money during retirement helps alleviate dependence on other forms of government-assisted retirement income, such as OAS and GIS. Requiring a person to be a non-resident for some period, such as two years, before applying to unlock pension funds would provide evidence that the person's non-residency status is of a more permanent nature (not only for the calendar year referred to in the CRA confirmation letter) which is consistent with the rationale of introducing non-residency unlocking. While the CRA form refers only to one tax year, several other Canadian jurisdictions have two-year non-residency requirements.

**Question 5: What, if any, additional information or requirements would you suggest?**

We do not believe that additional information or requirements would be necessary.

We trust that our comments are helpful. We would be pleased to further assist the FCAA of Saskatchewan in their work wherever possible.

Yours very truly,

*(original signed by Noah Arshinoff for Lawrence Swartz)*

Lawrence Swartz  
Chair, National Pensions and Benefits Law Section

June 18, 2014

Attention: Tami Dove, Sr. Policy Analyst, Pensions Division  
Financial and Consumer Affairs Authority  
Suite 601, 1919 Saskatchewan Drive  
REGINA SK S4P 4H2

Dear Ms. Dove,

**Towers Watson Submission on Saskatchewan Financial and Consumer Affairs Authority  
Consultation Paper on Non-Residency Unlocking**

Towers Watson welcomes the opportunity to provide comments on the Saskatchewan Financial and Consumer Affairs Authority's Consultation Paper on Non-Residency Unlocking.

Towers Watson is a leading global professional services company that helps organizations improve performance through effective people, risk and financial management. Towers Watson employs about 14,000 associates worldwide, with approximately 350 engaged in providing services to Canadian pension plans.

**Discussion Questions**

The following are our specific answers to the discussion questions set out in the consultation paper, in the order in which they appear. We have limited our comments to the application of these proposals with respect to registered pension plans.

**Question 1: Do you agree the government should amend the Regulations to allow for  
Non-Residency Unlocking?**

Towers Watson agrees that the Saskatchewan government should amend the Regulations to permit non-residency unlocking for vested, former plan members, consistent with the approach taken under the minimum pension standards legislation in other provinces and federally.

**Question 2: Do you agree with this provision being mandatory?**

We do not believe that there should be a mandatory unlocking provision. We understand that the regulatory proposal is mandatory in the sense that a qualifying non-resident former member must always have the right to elect non-resident unlocking.

Our experience is that many employers would willingly accommodate such unlocking. A settlement avoids the administrative costs and challenges of trying to locate, at retirement age, a former employee who may have left the country years ago and it thereby reduces the risk of stranded assets remaining in the plan.

However, a plan sponsor may have legitimate reasons to restrict non-resident unlocking. For example, some plans have foreign service provisions which coordinate benefits for members who accrue an entitlement under both a Canadian and foreign plan. In such cases, it may be preferable to retain the Canadian entitlement within the plan until the member's ultimate retirement or termination of employment from the corporate group. The member may be suspended in the Canadian plan during the period of foreign service (i.e., no further accrual of credited service) until such time as the member either returns to active employment in Canada, or terminates from a participating or related employer (including any foreign employers deemed to be a participating employer under the plan). A member who retains a suspended benefit may be able to include the period of foreign service when calculating his or her continuous service in the Canadian plan and this may allow the member to qualify for ancillary benefits under the plan, such as early retirement, and earnings in relation to periods of credited service may be indexed when determining benefits. The member's ability to qualify for a hold-harmless non-registered pension benefit in Canada may also be tied to his or her entitlement in the Canadian registered plan. Therefore, for foreign service provisions to work the way they are intended, an employer should be able to restrict non-resident unlocking under the plan.

**Question 3: Do you agree with the requirements (i.e. the confirmation letter from CRA and the spousal waiver form, if applicable) to provide proof to the plan administrator or financial institution of non-residency?**

Yes. The CRA confirmation letter is a requirement in several jurisdictions that allow non-residency unlocking and should also be used in Saskatchewan. A spousal waiver is also important to protect the spouse's rights under the pension plan and it would be helpful for the content of this form to be prescribed by regulation.

**Question 4: Are there any reasons why you feel that a person should be required to be a non-resident of Canada for a period of time (such as two years) before they are allowed to unlock?**

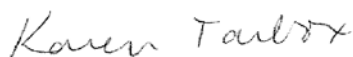
No, from a plan administration standpoint, the CRA certification of non-residency would be sufficient.

**Question 5: What, if any, additional information or requirements would you suggest?**

We have no further suggestions. The CRA confirmation letter and the spousal waiver are sufficient.

We greatly appreciate the opportunity to comment on the consultation paper. We would welcome the opportunity to address any questions you may have regarding our comments.

Sincerely,



Karen Tarbox  
Senior Consultant  
Towers Watson Canada Inc.  
[karen.tarbox@towerswatson.com](mailto:karen.tarbox@towerswatson.com)  
+1 416 960 2609



Simon Laxon  
Senior Consultant  
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June 19, 2014

Financial and Consumer Affairs Authority  
Suite 601, 1919 Saskatchewan Drive  
REGINA SK S4P 4H2

Attention: Ms. Tami Dove, Sr. Policy Analyst, Pensions Division

Dear Ms. Dove:

Re: Consultation Paper Non-Residency Unlocking

The Maintenance Enforcement Office in the Ministry of Justice has reviewed the proposed changes and have no objections to them.

We would suggest that the requirement in many other provinces that a person must be a non-resident for at least two years prior to being able to trigger the unlocking provision would be a good idea.

Saskatchewan is one of the few jurisdictions in Canada that can attach locked-in pension funds. This provision has been tremendously successful for custodial parents and children. We have reviewed our files and have determined that it has been used three times for people who were not residents of Canada, but did work and accumulate pension money here. In two of those three cases the other country was able to collect child support and we did not proceed with the pension attachment.

If a person has been a long term Canadian citizen and then leaves the country we have had to attach pension money a few times. In most cases attaching monies they receive from the Federal Government (CPP and Old Age) as well as the threat to cancel their Canadian passport has convinced people to make payments.

In summary we feel that the changes are fair and put us in line with other jurisdictions. We do feel that having the person be a non-resident for at least two years prior to triggering the unlocking provision would make it more challenging for the small minority of payors who are trying to avoid paying child support.

... 2

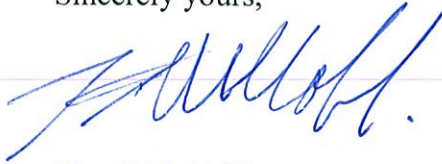
Financial and Consumer Affairs Authority  
Page 2  
June 19, 2014

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If you need clarification or would like to discuss this matter with me, I am at 306-787-1650.

Thank you for taking the time to contact our office.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Lionel McNabb". The signature is fluid and cursive, with a prominent initial "L" and "M".

Lionel McNabb  
Executive Director  
Family Justice Services

June 18, 2014

**PRIVATE & CONFIDENTIAL**

Ms. Tami Dove  
Sr. Policy Analyst, Pensions Division  
Financial and Consumer Affairs Authority  
Suite 601, 1919 Saskatchewan Drive  
Regina, SK S4P 4H2

**RE: CONSULTATION ON NON-RESIDENCY UNLOCKING**

Aon Hewitt is pleased to provide the following response to FCAA's consultation paper on non-residency unlocking. Please note that our comments are confined to non-residency unlocking in the context of pension plans that are registered under the Saskatchewan Pension Benefits Act.

In general, we are supportive of regulation that will enable non-residents to unlock registered assets (Question 1) and that such regulation should mandate non-resident unlocking (Question 2). However, our support is conditional on a number of details that the legislation would need to address. The following summarizes the areas where we believe the regulation would need to be abundantly clear:

- The regulation should prescribe very specific criteria that would need to be satisfied prior to assets being unlocked. The rationale for such specificity is to limit the need for pension plan administrators to exercise discretion and develop additional policies. The proposed documentation (Question 3) would appear sufficient; however, details that define valid documentation would need to be prescribed.
- Where an administrator has complied with the prescribed criteria to unlock assets, a statutory discharge should be provided to the pension plan, the administrator, a participating employer, a former participating employer or another person who was required to ensure contributions to the plan are discharged from further liability to the person whose benefits were unlocked. Such a discharge would be in line with the discharge contemplated in British Columbia and Alberta in the context of annuity buy out and would not, in our view, be unreasonable in the circumstances. Moreover, such discharge along with prescriptive legislation that minimizes the administrator's need to use discretion will dispense with the need for any waiting periods as suggested in Question 4.
- The regulation must not create further portability rights for non-resident pension plan members. Rather, the regulation should focus solely on unlocking lump sum amounts for which a non-resident member already has a right to commute from a pension plan. Of particular concern is that any regulation could provide, for example, a pensioner or deferred pensioner an option to commute benefits where such right would not otherwise exist (e.g., we would not be supportive of a pensioner being provided an opportunity to unlock a pension once it has commenced and is in pay).

**Aon Hewitt**

Canada Building | 105 – 21 Street East | 8th Floor | Saskatoon, Saskatchewan S7K 0B3  
Telephone: 306-934-8680 | Fax: 306-244-7597 | [www.aonhewitt.com](http://www.aonhewitt.com)



Finally, we would expect that little, if any, reference would need to be amended into a pension plan's legal document. Furthermore, we would expect that a pension plan could be administered without a formal amendment until such time as a more substantial amendment to the plan is required.

Thank you for the opportunity to provide our comments. We would be pleased to discuss or elaborate on our submission further at your convenience.

Yours truly,



Donald L. Ireland, FSA, FCIA  
Partner  
(403) 303-1524



Troy Milnthorp, FSA, FCIA  
Associate Partner  
(306) 934-8698

**From:** [Dumont, Kendra](#)  
**To:** [Dove, Tami FCAA](#)  
**Subject:** RE: FCAA Consultation Paper: Non-Residency Unlocking  
**Date:** Friday, June 20, 2014 1:25:43 PM  
**Attachments:** [image002.png](#)  
[Response to FCAA Non-Res Unlocking Cons Paper.docx](#)

---

Hi Tami,

Please see attached our comments regarding the consultation document. If you need further information, please do not hesitate to contact me.

Kind regards,

▣ **Kendra Dumont, B.Sc.**

**Pension Manager, Financial Services Division**

Pensions Office, Rm 220, Research Annex  
105 Maintenance Rd.  
Saskatoon, SK S7N 5C5  
Ph: (306) 966-2223 F: (306) 966-2036



Please think of the environment before printing this e-mail.

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**From:** Dove, Tami FCAA [mailto:tami.dove@gov.sk.ca]  
**Sent:** Monday, May 12, 2014 3:40 PM  
**To:** Dumont, Kendra  
**Subject:** FCAA Consultation Paper: Non-Residency Unlocking

Good day,

Please visit this link (<http://www.sfsc.gov.sk.ca/Pensions-Consultation-Non-Residency-Unlocking>) to find our Non-Residency Unlocking Consultation Document (the Document). The Document details the proposed Non-Residency Unlocking provision, outlines the principles upon which the provision was developed and sets-out the details of the provision. The Financial and Consumer Affairs Authority is interested in receiving your response to the questions outlined throughout the Document.

We look forward to receiving your comments by **June 20, 2014**. Please email your response to myself, Tami Dove, Senior Policy Analyst, Pensions Division ([tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)).

Alternatively, comments may be mailed or faxed to the contact information provided at the end of the Document.

Thank you,

**Tami H. Dove, B.Comm, PPAC** | Senior Policy Analyst | Pensions Division | Financial and Consumer Affairs Authority |  
601 - 1919 Saskatchewan Drive | Regina, SK S4P 4H2 | cell: 306.541.9337 | fax: 306.798.4425 |  
[tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)

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## Consultation Paper – Non-Residency Unlocking

### **Comments from the Pensions Office, University of Saskatchewan**

#### **Question 1: Do you agree the government should amend the Regulations to allow for Non-Residency Unlocking?**

*We are not opposed to allowing for Non-Residency Unlocking; however, our concerns are that there may be additional administrative onus to allow this additional option. See additional questions at the end of the document.*

#### **Question 2: Do you agree with this provision being mandatory?**

*For the purpose of this question, we assume that it would be mandatory for the plan to allow the pension entitlement to be unlocked, but it would not be mandatory that a member who is a non-resident of Canada must unlock their funds and receive a taxable lump sum refund (ie. the member would still have all other options available to them, such as a transfer to LIRA or PRIF)*

*We agree that it should be mandatory for all pension plans to follow the new regulations for non-residency unlocking, with the condition that all required forms have been supplied to us as the plan administrator (spousal waiver and non-resident confirmation from CRA).*

*Would the mandatory requirement apply only to pre-retirement eligibility? How would this affect members whose pension is locked-in to the plan as a deferred pension? Would the plan be forced to allow a lump sum refund due to non-residency unlocking for a member who is a deferred pensioner? If so, we feel that this would create an unfair advantage for non-resident members over members who remain in Canada. The same question goes for members who are currently receiving a monthly pension? We would not be in agreement to the non-residency unlocking provisions being applied to deferred pensions or pensions in pay.*

#### **Question 3: Do you agree with the requirements (ie. the confirmation letter from CRA and the spousal waiver form, if applicable) to provide proof to the plan administrator or financial institution of non-residency?**

*Yes, we agree with the requirements. We would not be confident in trying to determine whether a member is a non-resident of Canada for the purposes of the Income Tax Act (Canada), so we agree that this should be determined by CRA.*

*Will the required spousal waiver be the same spousal waiver that is currently used? Or will there be another spousal waiver in addition to the two that are currently being used (60% waiver and PRIF waiver)?*

**Question 4: Are there any reasons why you feel that a person should be required to be a non-resident of Canada for a period of time (such as two years) before they are allowed to unlock?**

*We feel that it might be beneficial to require a member to be a non-resident for two years before they are allowed to unlock, as it may prevent possible “abuse” of the unlocking rule. By requiring a two year minimum, it ensures that the member has long-term plans of remaining a non-resident of Canada. In this case, would the CRA confirmation letter include a confirmation that the member has been a non-resident for the required period of time? Or would it cause additional administrative efforts to ensure the minimum time has been met?*

**Question 5: What, if any, additional information or requirements would you suggest?**

*We do not have further suggestions for information or requirements of the member in order to unlock due to non-residency. We do; however, have additional questions and comments regarding the proposed legislation:*

*What happens if the member returns to Canada and is re-employed at the University of Saskatchewan? Would we, at that point, be required to allow the member to bring their funds back into Canada?*

*Will the withholding tax follow the same lump sum rules or will there be a different amount of withholding tax for non-residency unlocking?*

*Our experience is that members who are non-residents want/expect to receive a special reduced tax rate on their payments from the plan (or from the PRIF). We are not tax experts and therefore are not comfortable advising members on tax issues, or allowing special tax rates for specific situations such as non-residency unlocking.*

*Under one of our defined benefit pension plans, there is a time limit (90 days) for the member to make an election, or they default to a deferred pension. In this case, how would the member follow this administrative rule if they are planning on unlocking due to non-residency? Would they be forced to transfer to a LIRA within the 90 days and then proceed with the non-residency unlocking from the LIRA?*

**From:** [BGuenther@paperexcellence.com](mailto:BGuenther@paperexcellence.com)  
**To:** [Dove.Tami.FCAA](mailto:Dove.Tami.FCAA)  
**Subject:** Re: FCAA Consultation Paper: Non-Residency Unlocking  
**Date:** Friday, June 20, 2014 5:50:30 PM

---

Tami,

With regards to the attached:

Q1 - Yes

Q2 - Yes

Q3 - Yes

Q4 - Yes, ease of administration and to prevent temporary non-residents from taking money to just later return. This should be seen as a more "permanent" non residency.

Thanks,

Bobbie Guenther, CPM  
Payroll and Benefits Manager

Paper Excellence Canada Holdings Corporation  
Contacts: +1 604 248-2021 office  
Website: <http://www.paperexcellence.com>

-----"Dove, Tami FCAA" <[tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)> wrote: -----

To: "bguenther@paperexcellence.com" <[bguenther@paperexcellence.com](mailto:bguenther@paperexcellence.com)>  
From: "Dove, Tami FCAA" <[tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)>  
Date: 05/12/2014 02:41PM  
Subject: FCAA Consultation Paper: Non-Residency Unlocking

Good day,

Please visit this link (<http://www.sfsc.gov.sk.ca/Pensions-Consultation-Non-Residency-Unlocking>) to find our Non-Residency Unlocking Consultation Document (the Document). The Document details the proposed Non-Residency Unlocking provision, outlines the principles upon which the provision was developed and sets-out the details of the provision. The Financial and Consumer Affairs Authority is interested in receiving your response to the questions outlined throughout the Document.

We look forward to receiving your comments by **June 20, 2014**. Please email your response to myself, Tami Dove, Senior Policy Analyst, Pensions Division ([tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)).

Alternatively, comments may be mailed or faxed to the contact information provided at the end of the Document.

Thank you,

Tami H. Dove, B.Comm, PPAC | Senior Policy Analyst | Pensions Division | Financial and Consumer Affairs Authority |

601 - 1919 Saskatchewan Drive | Regina, SK S4P 4H2 | cell: 306.541.9337 | fax: 306.798.4425 | [tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)

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**Canadian Life  
and Health Insurance  
Association Inc.**

**Association canadienne  
des compagnies d'assurances  
de personnes inc.**

June 20, 2014

Ms. Tami Dove  
Senior Policy Analyst, Pensions Division  
Financial and Consumer Affairs Authority  
Suite 601, 1919 Saskatchewan Drive  
Regina, SK S4P 4H2

Delivered by email: [tami.dove@gov.sk.ca](mailto:tami.dove@gov.sk.ca)

Dear Ms. Dove:

### **Consultation Paper: Non-Residency Unlocking**

I am writing on behalf of Canada's life and health insurance industry in respect of the captioned consultation paper which was released on May 12, 2014. While our members are generally supportive of the proposed measure, there are some areas where we believe further consideration or clarification may be warranted. These are summarized below.

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. CLHIA members provide services to approximately two-thirds of private pension plans in Canada, primarily in defined contribution plans, and a larger proportion of other workplace savings arrangements such as group RRSPs. Our members are also significant providers of "retail" savings plans, including locked-in retirement accounts (LIRAs) and Life Income Funds (LIFs) that hold amounts transferred from workplace pension plans.

### **Introduction**

Permitting the premature withdrawal of amounts intended to provide adequate lifetime retirement incomes in order to address consumer needs prior to retirement is inherently inconsistent with the objective of pension legislation to ensure the protection and preservation of retirement incomes. Yet CLHIA members recognize the competing demands that current and future income needs impose on many Canadians, and the appropriateness of adapting pension

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[www.accap.ca](http://www.accap.ca)

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legislation and regulations to address current income needs where inadequate other income sources exist.

Our view is that **early access to funds intended to provide retirement benefits needs to be clearly defined and limited in order to preserve, in as reasonable a manner as possible, the intended retirement income.** At the same time, there are costs to maintaining small accounts that may not be justified, especially where consumers may be able to save for retirement more cost-effectively in alternative instruments.

### **Rationale for Non-Residency Unlocking**

For individuals who have effectively severed residential ties to Canada, **it is questionable whether maintaining pension-sourced savings in Canada is a cost-effective option, particularly if differential tax and estate treatments apply between Canada and such individuals' countries of residence or citizenship.** This is especially true if such amounts can be transferred or deposited to comparable tax-deferred and retirement-focused instruments in an individual's current country of residence or citizenship.

The consultation paper notes that the criteria for being considered a non-resident of Canada for purposes of unlocking pension or locked-in retirement account balances subject to Saskatchewan law will be those used by the Canada Revenue Agency when evaluating a *Determination of Residency Status (Leaving Canada)* (CRA form NR73). We believe that this is a reasonable, consistent, and robust basis for determining non-resident status, and we support use of this basis.

Changes in residency status are not, however, irreversible. For this reason, the Canada Revenue Agency also adjudicates residence status for inbound migrants, using form NR74, *Determination of Residency Status (Entering Canada)*. We anticipate that, in some cases, a significant delay, potentially several years, may arise between the determination of residency and an application for Non-Residency Unlocking. The Canada Revenue Agency would not, as a matter of course, re-determine residency status each year, and there may be a *de facto* change in an individual's residency status, including a reversion to resident status, that has not been documented to or adjudicated by the Canada Revenue Agency.

In order to prevent inappropriate unlocking due to reliance on an obsolete determination of non-resident status, **we recommend that any unlocking be contingent on provision of documentation from the Canada Revenue Agency confirming non-resident status in either the calendar year in which the unlocking is requested or in the prior calendar year.**

The consultation paper also notes that non-residents of Canada often do not have a valid Social Insurance Number. While this may be true generally, it is unlikely to be the case for individuals who have worked in Canada, and therefore have accrued pension entitlements in Canada.



Access to successor instruments such as LIRAs should not pose a challenge to such individuals, unless financial institutions impose residency requirements on new client relationships.

The absence of a Social Insurance Number may, however, be relevant for pension partners of individuals who have accrued pension entitlements in Canada, and thus may be more relevant with respect to the transfer of survivor benefits to an alternative instrument in Canada. Thus, absence of a valid Social Insurance Number may be a basis for unlocking upon transfer of survivor benefits to a successor instrument. However, **we do not believe that the absence of a Canadian-issued Social Insurance Number is a reasonable or appropriate public policy rationale for permitting unlocking due to non-residence on amounts held in a (former) pension plan member's plan or account.**

*The CLHIA agrees that Regulations should be amended to permit Non-Residency Unlocking.*

### **Mandatory Provision of Non-Residency Unlocking**

In order to provide consistent access to locked-in funds and to streamline administration, the CLHIA agrees **that availability of non-residency unlocking should be required of all pension plans and LIRAs** under which benefit entitlement matters are subject to *The Pension Benefits Act* of the Province of Saskatchewan. We would note, however, that as an administrative practice, **written amendment of pre-existing contracts should not be required solely to document the addition of this provision**, providing plan administrators, their service providers and financial institutions offering LIRAs administer such arrangements on a basis that is consistent with the addition of a non-residency unlocking provision. Explanation of such provisions could be communicated most cost-effectively via broadcast mechanisms, such as an employer's website for staff and retirees and financial institutions' public or client websites. Reference to a non-residency unlocking provision would, of course, be incorporated into any new or otherwise revised pension plan or LIRA documentation.

In order to provide adequate time for administrators, service providers and financial institutions to develop appropriate systems and processes, including education of staff and intermediaries, the CLHIA recommends that a period of **at least six months be provided between signing of the Order in Council adopting amendment of the Regulation and the date at which non-residency unlocking would be permitted.**

*The CLHIA agrees that provision of Non-Residency Unlocking should be mandatory for pension plans and for locked-in retirement accounts.*



## Administration of the Provision

It is possible to be a *de facto* non-resident for Canadian income tax purposes without intending to lose Canadian residence status. However, such occurrences are unlikely to be common and the requirement that non-resident status be determined using form NR73 likely imposes an intent to become non-resident that would generally be consistent with the two year non-residence requirement imposed by some other jurisdictions are part of their unlocking regimes.

We have noted above our concern that there may be *de facto* changes in residency status that have not been reported to or adjudicated by the Canada Revenue Agency and our recommendation that a current determination of residency status be required.

Subject to this caveat, **we support the proposed requirements with respect to applications for Non-Residency Unlocking, and see no particular value in imposing a minimum period of non-residence as a condition of unlocking.**

## Implementation

Communication of the proposed changes to consumers, employers, financial advisors and other intermediaries, along with staff training within financial institutions and development of appropriate processes will take some time after detailed proposals are released, and **we would hope to work with officials to develop a reasonable implementation period** to ensure successful and seamless introduction of any measures arising from this consultation.

Thank you for the opportunity to comment on this proposal. CLHIA members and I would be pleased to review these concerns with you and your colleagues as appropriate; please contact me if such discussions would assist your review of these issues. As always, I can be contacted by telephone at 416-359-2021, or by email at [rsanderson@clhia.ca](mailto:rsanderson@clhia.ca).

Yours sincerely,

*(Original signed by)*

Ron Sanderson  
Director, Policyholder Taxation and Pensions



**ACPM | ACARR**

The Association of Canadian Pension Management

L'Association canadienne des administrateurs de régimes de retraite



**June 23, 2014**

# **ACPM Response to Saskatchewan Consultation Paper – Non-Residency Unlocking**

## ACPM CONTACT INFORMATION

**Mr. Bryan Hocking**  
Chief Executive Officer  
Association of Canadian Pension Management  
1255 Bay Street, Suite 304  
Toronto ON M5R 2A9  
Tel: 416-964-1260 ext. 225  
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## **FOREWORD**

### **THE ASSOCIATION OF CANADIAN PENSION MANAGEMENT (ACPM)**

ACPM is a national non-profit volunteer-based organization acting as the informed voice of plan sponsors, administrators and their service providers, advocating for improvement to the Canadian retirement income system. Our membership represents over 400 retirement income plans consisting of more than 3 million plan members, with assets under management in excess of \$330 billion.

ACPM believes in the following principles as the basis for its policy development in support of an effective and sustainable Canadian retirement income system:

#### ***Diversification through Voluntary / Mandatory and Public / Private Options***

Canada's retirement income system should be comprised of an appropriate mix of voluntary Third Pillar and mandatory First and Second Pillar components.

#### ***Third Pillar Coverage***

Third Pillar retirement income plan coverage should be encouraged and play a meaningful ongoing role in Canada's retirement income system.

#### ***Adequacy and Security***

The components of Canada's retirement income system should collectively enable Canadians to receive adequate and secure retirement incomes.

#### ***Affordability***

The components of Canada's retirement income system should be affordable for both employers and employees.

#### ***Innovation in Plan Design***

Canada's retirement income system should encourage and permit innovation in Third Pillar plan design.

#### ***Adaptability***

Canada's retirement income system should be able to adapt to changing circumstances without the need for comprehensive legislative change.

#### ***Harmonization***

Canada's pension legislation should be harmonized.

## **Introduction**

We are pleased to comment on the Financial and Consumer Affairs Authority's (Saskatchewan) consultation paper Non-Residency Unlocking.

The Association of Canadian Pension Management (ACPM) is a national, non-profit organization acting as the informed voice of plan sponsors, administrators and their service providers in advocating for improvement to the Canadian retirement income system. Our membership represents over 400 companies and retirement income plans that cover more than 3 million plan members.

ACPM generally supports the concept of amending the regulation with respect to non-residency unlocking. We have reviewed the Consultation Paper: Non-Residency Unlocking and will respond to the questions in the same order as presented.

### **“Question 1: Do you agree the government should amend the Regulations to allow for Non-Residency Unlocking?”**

Yes. ACPM believes that non-residents should be given the option to unlock their pension assets. Non-residents by definition are no longer residents of Canada and depending on the country they now reside in could have difficulty maintaining access to pension assets and registered retirement savings plans (including locked-in versions). By allowing the non-resident an option to unlock (or not unlock) the individual can choose to act in a way that meets their specific circumstances and is in their best financial interest.

### **“Question 2: Do you agree with this provision being mandatory?”**

Yes (but subject to our comments in 5. b) below). Mandatory means that all pension plans and financial institutions would have to allow a non-resident to unlock their assets if the individual meets all the requirements in the legislation. This facilitates the non-resident of having an option (to choose to unlock or not) to act in their best financial interest. Allowing a pension plan or financial institution to opt out of the unlocking legislation could result in some individuals not having access to this option.

### **“Question 3: Do you agree with the requirements (i.e. the confirmation letter from CRA and the spousal waiver form, if applicable) to provide proof to the plan administrator or financial institution of non-residency?”**

Yes. A pension plan or financial institution would then be able to rely on this documentation to determine whether the required conditions are met. The non-resident would then be able to rely on these requirements as can the pension plan or financial institution. This should reduce the administrative burden.

### **“Question 4: Are there any reasons why you feel that a person should be required to be a non-resident of Canada for a period of time (such as two years) before they are allowed to unlock?”**

In general, the ACPM is in favour of harmonized legislation across jurisdictions in Canada. Having a two year waiting period would harmonize with other jurisdictions in Canada. ACPM does not feel that this is a critical provision so we would be fine without the two year provision also.

**“Question 5: What, if any, additional information or requirements would you suggest?”**

The ACPM has two additional comments:

**a) Unlocking to Cash or RRSP**

From the Consultation Paper:

“The payment will be subject to the withholding tax pursuant to the *Income Tax Act* (Canada). (see section 2. Rationale for Non-Residency Unlocking)

“Once unlocked, the funds must be paid to the person, subject to any withholding taxes.”  
(see section 4. Administration of the Provision)

We are unclear as to whether this allows an individual to unlock the pension and have the proceeds transferred to an RRSP if they so wish.

It would be ACPM’s recommendation that the legislation allow for flexibility for the individual. Thus a non-resident, (assuming they have met all the criteria), would have the option of either:

- a transfer of the locked-in assets to cash and pay applicable taxes: or
- a transfer of the locked-in assets to a registered retirement savings plan.

**b) Member is not Entitled to Portability under Plan Provisions**

From the Consultation Paper:

“The proposed Non-Residency Unlocking provision will be available to persons who:

- are entitled to pension benefits pursuant to the Act;
- are no longer accruing a benefit in the pension plan<sup>1</sup>, and
- are a non-resident of Canada.”

We recommend that the legislation be clear that the unlocking provision not be available to those retired members already receiving a monthly pension from the pension plan. A retired member who is receiving a monthly pension payment could meet the three conditions. Once a pension payment is in payment it should not be able to be altered (except of course based on the terms of form of payment the member chose).

In addition, some plans restrict portability to members such as when a member is entitled to an unreduced pension. We would recommend that, when a plan restricts portability under the terms of the plan, the member not be entitled to unlock pension assets (get access to portability) under the non-residency provisions.

We thank you for allowing us the opportunity to provide comments and, if required, we look forward to providing further assistance to the Financial and Consumer Affairs Authority.



June 25, 2014

**Via Email**

Ms. Tami Dove  
Sr. Policy Analyst, Pensions Division  
Financial and Consumer Affairs Authority  
Suite 601, 1919 Saskatchewan Drive  
Regina, SK S4P 4H2

Dear Ms. Dove:

**Re: Consultation on Non-Residency Unlocking Provisions**

We are appreciative of the opportunity to comment on the recently released pension paper regarding non-residency unlocking.

Following a review of the proposed regulation and discussion with our actuarial and pension consultants, Aon Hewitt, the University of Regina pension committees are in agreement and supportive of the observations outlined by them to you in their letter of June 18, 2014. Namely,

- a) the regulation should prescribe very specific criteria necessary to be satisfied prior to assets being unlocked,
- b) where an administrator has complied with the prescribed criteria to unlock assets, a statutory discharge should be provided to the pension plan, the administrator, a participating employer, a former participating employer or another person who was required to ensure contributions to the plan are discharged from further liability to the person whose benefits were unlocked, and
- c) the regulation must not create further portability rights for non-resident pension plan members.

If you have any questions or further comments in regard to our response, please let us know.

Sincerely,



Dale Schoffer, Chair  
Non-Academic Benefits Committee and  
Associate Vice President Finance



Larry Miller, Chair  
Academic and Administrative  
Benefits Committee and Associate  
Professor Faculty of Science  
(Mathematics & Statistics)

cc: Aon Hewitt  
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**RE: Non-Residency Unlocking**

We are writing as the Board of Trustees for the Carpenters' Pension Fund of Saskatchewan and we wish to express our general support for the initiative.

We believe permanent non-residency represents a bona fide justification for the unlocking of a pension entitlement subject to *The Pension Benefits Act, 1992* (the "Act") and the regulations thereunder. This is in contrast the current provisions of the Act and regulations that permit 100% unlocking of entitlements at the earliest retirement age for the pension plan in which the entitlement accrued. We see no justification for this latter provision.

Given the current unlocking permissibility under the Act, the only real issue is timing. On that basis, the rules should be simple and easy to administer, as the notion of protecting the original intent of the pension monies is illusory at best.

Sincerely,

Board of Trustees  
Carpenters Pension Fund of Saskatchewan