



Pension Investment  
Association of Canada

Association canadienne des  
gestionnaires de caisses de retraite

January 28, 2008

Mr. Brian Ernewein  
General Director, Tax Policy Branch  
Department of Finance  
Brian.Ernewein@fin.gc.ca

Dear Mr. Ernewein,

The Pension Investment Association of Canada (PIAC) has been the national voice for Canadian pension funds since 1977. Senior investment professionals employed by PIAC's member funds are responsible for the oversight and management of over \$910 billion in assets on behalf of millions of Canadians. PIAC's mission is to promote sound investment practices and good governance for the benefit of pension plan sponsors and beneficiaries.

On December 11, 2007, PIAC made a submission to the Minister of Finance, the House of Commons Finance Committee and the Senate Banking, Trade and Commerce Committee, in respect of the proposed "non-resident trust" provisions of Bill C-10 (copy enclosed). We have reviewed transcripts of the proceedings of the Senate Committee addressing these provisions on December 12 and 13, and some of our member pension funds and professionals have been able to participate in discussions with your department this month concerning Bill C-10 as it relates to non-resident trusts.

As our submission stated, we are concerned that without amendment, the NRT proposals would cause a significant and unnecessary impediment for Canadian pension funds investing outside of Canada in order to meet their financial obligations to their pension plan members. PIAC believes that public policy should promote a sound retirement income system.

We understand that you will be proposing to retroactively amend the legislation, once Bill C-10 is enacted, to favourably address this situation. We appreciate the importance of enacting Bill C-10 and support the proposed approach, subject to a "Comfort Letter" promptly being issued by the Department of Finance confirming that:

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(i) it will recommend amendments to provide an exclusion for certain pension-related entities (and entities wholly-owned by them) from the definitions of resident contributor and resident beneficiary, with corresponding amendments to proposed paragraph 94(3)(e) of the Income Tax Act;

(ii) the purpose of the amendments will be to allow identified pension-related entities to invest directly or indirectly in non-resident trusts with the effect that registered Canadian pension plans, certain government-related pension investment organizations, and their respective wholly-owned entities will be able to invest in non-resident trusts, either alone or with other such entities, without creating exposure on the part of the trust to Canadian tax or joint and several liability on the part of those entities for any such Canadian taxes; and

(iii) the Department of Finance recognizes that various aspects of the proposals may need further modification to address co-investment by such entities, and is committed to possible further amendments should they be necessitated by the evolution of (or a deeper understanding of) investment structures.

We are requesting this "Comfort Letter" confirmation to bridge the time between enactment of Bill C-10 and amending legislation, with a view to avoiding unnecessary disruption to our member plans' investment portfolios (including possible divestitures of trust investments), as well as to assist in addressing the concerns of investment managers, trust organizers and their advisors who, prior to enactment of the proposed amendments, might otherwise prohibit our member plans from investing in their trust vehicles. In our view, a "Comfort Letter" should be issued so as to provide assurance that relieving legislation will be recommended by the Department of Finance.

Sincerely,



Roger Robineau  
Chair

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