

BULLETIN NUMBER: PEN-10-002
TITLE: Pension Unlocking Scams
LEGISLATION: *Pension Benefits Standards Act*
DATE: APRIL 2010

Increasing Risk

The Financial Institutions Commission (“FICOM”) is receiving an increasing number of complaints regarding pension unlocking scams.

What is a Pension Unlocking Scam?

Pension funds are locked-in to ensure they will be available to provide a source of income when a person retires.

In many cases, unlocking scams are targeted at people who are in financial distress and are simply hoping to get immediate access to their locked-in pension funds to meet their current financial needs.

Promoters of scams will usually try to build on your trust in order to exploit your vulnerabilities. For example, they may ask you if you are having short term financial challenges or if you are worried about not having enough money to retire on. Once they understand your circumstances, they will target their promotional message to exploit them.

Falling victim to one of these scams could have serious financial implications, including the total loss of your pension funds as well as a reassessment of your tax returns by the Canada Revenue Agency (“CRA”) resulting in significant financial penalties.

Getting Access to Your Money without Paying Tax

If someone tells you there is a way to get money out of your locked-in retirement Registered Retirement Savings Plan (“RRSP”) without paying tax, it is very likely a scam.

In order to protect the financial security of pension plan members or their spouses, under British Columbia’s *Pension Benefits Standards Act* (“PBSA”), all vested pension benefit entitlements **must** be held in a locked-in RRSP.

In BC, there are only four exceptions to the locking-in requirement, which allow access to locked-in pension funds under very limited circumstances. These exceptions are:

- you have a very small pension;
- you have reached a certain age;
- you are facing an illness that will shorten your life expectancy; or,
- you are permanently leaving the country.

Unless you qualify for one of these exceptions, you will not be able to withdraw your locked-in pension funds.

Even if you meet the terms of these exceptions, you will always pay tax on the money you withdraw from your locked-in RRSP.

For more information on the exceptions, please go to the following FICOM website, or speak with the financial institution holding your locked-in fund:

<http://www.fic.gov.bc.ca/responsibilities/pension/rsp-lif/except.htm>

It is important to note that outside of these lawful exceptions, counseling or engaging in activities leading to, or resulting in, the unlocking of a vested pension entitlement violates the PBSA.

How Can You Recognize a Pension Unlocking Scam?

Pension unlocking scams can be very sophisticated and deliberately designed to look like legitimate investment opportunities.

In the past, promoters have used the Internet, unsolicited e-mails, telephone calls, newspaper advertisements, radio, word of mouth by targeting people through the groups or churches they belong to, or promotional meetings or seminars to lure people into participating in a pension unlocking scam.

Promoters, or their agents, may provide you with step-by-step advice on how to unlock your pension funds. Either directly, or through related entities, they may also provide you with supporting documentation to facilitate the unlocking of your pension funds.

Some Common Characteristics

Although varied in design, these scams share several common characteristics, including:

- **Requiring you to transfer your locked-in fund to a self-directed RRSP.** In order to conceal the eventual unlocking transaction, you will very likely be asked to transfer your fund to a self-directed RRSP. Once the funds are in the self-directed RRSP, the money will then be unlocked in a subsequent transaction to purchase a particular investment. The types of investments may include shares in a company, bonds, cooperative shares, securities, mortgages in land or buildings, or other types of investments.
- **Promising immediate access to your pension funds.** As part of the investment, you will be promised or guaranteed immediate access to your funds.
- **Promising that you may access your locked-in funds without paying taxes.** Promoters of such schemes will often claim that they can give you access to money held in a locked-in RRSP without paying taxes.
- **Claiming that you can receive a loan equal to the value of your locked-in funds without collateral or other consideration.** The axiom, "If it sounds too good to be true, it probably is," is still valid. It is unlikely that a legitimate loan will be given without some form of collateral being put in place to ensure repayment of the loan.
- **Providing additional incentives.** As a condition of the investment, you may be granted an investment "credit", such as a loan back arrangement, additional shares, or a preloaded debit or credit card to induce you to invest.
- **Promoting significant returns on your investments.** The return on investment will always be significant. Be cautious and diligent if this is the case: If the promises on your return on investment seem too good to be true, they probably are.
- **Applying fees.** You will likely be charged fees for the provision of unlocking and/or related investing services, and these fees may substantially erode your pension fund. With respect to locked-in RRSPs, if you pay fees for the unlocking of money, you are paying somebody to "give" you something that is already yours.

What Should You Do if You Encounter a Scam?

- **Get independent advice.** If you have been given an opportunity to unlock and invest your pension funds, immediately get independent financial, legal or tax advice. Independent advice means advice from a person or entity that is not connected with the unlocking of the pension or the proposed investment.
- **Do some independent research.** Search for reports on the entities you are doing business with. For example, check their professional registration and business histories on the Internet. Take some time to know what you may be investing in by asking lots of questions, and by reading financial newspapers and analyst reports. **Always** verify the information you are being given by the promoter of the unlocking scheme.
- **Contact the authorities**
 - If you are a resident of BC or have funds locked-in under BC legislation, contact FICOM at the address at the bottom of the first page of this Consumer Alert.
 - The CRA investigates fraudulent unlocking scams under the *Income Tax Act*. For more information, please contact the CRA at 1-800-267-3100.
 - The British Columbia Securities Commission investigates pension unlocking scams that involve securities. For more information, please contact the British Columbia Securities Commission at 604 889-6500.
 - The Royal Canadian Mounted Police (“RCMP”) tracks and profiles scams at the *Reporting Scams and Frauds* website at: <http://www.rcmp-grc.gc.ca/scams-fraudes/rep-sig-eng.htm>. The website also provides contact information for the police services in your jurisdiction.