

BULLETIN NUMBER: PENS-14-002
TITLE: Pension Unlocking Scams
LEGISLATION: *Pension Benefits Standards Act*
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Increasing Risk

The Financial Institutions Commission (“FICOM”) has become aware of new scams regarding pension unlocking.

What is a Pension Unlocking Scam?

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

Alternatively, unlocking scams may be targeted at people trying to use locked-in pension funds for investment purposes.

Promoters of these scams will try to build on your trust by promising generous financial returns if you to transfer your locked-in funds to a self-directed RRSP.

Once the perpetrators understand your circumstances, they will adapt their pitch to exploit them.

Falling victim to one of these scams could have serious financial implications. It could result in the total loss of your pension funds and the reassessment of your tax return by the Canada Revenue Agency (“CRA”) ending in significant financial penalties.

How Can You Recognize a Pension Unlocking Scam?

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

Promoters often use the Internet, unsolicited e-mails, telephone calls, newspaper advertisements, radio, or word of mouth to target people through the groups or

churches they belong to. They may also hold promotional meetings or seminars to lure people into participating in a pension unlocking scam.

Promoters, or their agents, may offer step-by-step advice on how to unlock your pension funds. They may also produce sophisticated supporting documentation to facilitate the unlocking of your pension funds.

Some Common Characteristics of Pension Unlocking Scams

Although the actual delivery may vary, 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. This is one of the hallmarks of these kinds of scams.
- ***Claiming that you can receive a loan equal to the value of your locked-in funds without collateral or other considerations.*** It is highly unlikely that a legitimate loan will be made without some form of collateral to ensure repayment of the loan. Remember, if it sounds too good to be true, it probably is.
- ***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 “risk-free” or “low-risk” returns on your investments.*** Perpetrators of these scams promise a significant return on investment, claiming that the investment will be “risk-free” or “low-risk.” Compare the promised return with other rates currently available. If it seems exceptional, seek independent advice.

- **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. If you are asked to pay fees for unlocking of money in a locked-in RRSP, you are paying somebody to “give” you something that is already yours.

Under what circumstances can I unlock pension funds?

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 Pension Benefits Standards Act (PBSA).

Under the PBSA, all vested pension benefit entitlements **must** be held in a locked in RRSP.

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 seek independent financial, legal or tax advice. This should be advice from a person or entity that is not connected with the unlocking scheme or the proposed investment.

- ***Do some independent research.*** Search for reports on the entities you are doing business with. For example, check for professional registration and business histories on the Internet. Take some time to understand what you may be investing in by asking lots of questions, and by reading reliable financial media and analyst reports. **Always** independently 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.

 - The Government of Canada maintains the Canadian Anti-Fraud Centre website at <http://www.antifraudcentre-centreantifraude.ca/english/home.html>. This website contains information on many scams operating in Canada and allows victims of fraud or scams to report the nature of the scheme they may have fallen victim to.

At the Financial Institutions Commission, we issue information bulletins to provide technical interpretations and positions regarding certain provisions contained in the *Pension Benefits Standards Act*, Regulations and other pertinent legislation. While the comments in a particular part of an information bulletin may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, an interpretation or position contained in an information bulletin generally applies as of the date on which it was published, unless otherwise specified.