

GROUP RETIREMENT SAVINGS PRODUCT REGULATORY REGIME

INTRODUCTION

In discussions on retirement reform with officials of National Treasury, OM EB EXCO agreed to follow up Old Mutual's submission on the Retirement Reform Discussion Paper with a further submission on its proposal in paragraph 8.3 that the future regulatory regime should, in addition to a retirement fund based regime, provide for a retirement savings product regulatory regime (not requiring participation in a retirement fund).

In Old Mutual's submission it was pointed out that regulation of individual retirement savings products could function very simply in that-

- the parameters within which product may be designed is regulated; and
- if the individual is unhappy with the performance of the product, he/she may vote with his/her feet by moving the savings to another retirement savings product provider [paragraphs 8.5 and 8.6].

It was however also suggested in the submissions and during the discussions with Treasury representatives that such a product regulatory regime could be extended to group retirement savings products where the members have an appropriate body who can represent the interests of members, such as a managing body of an affinity group [paragraph 8.9].

PARADIGM SHIFT

The regulation of a retirement savings product is not contemplated in the current Pension Funds Act. This Act provides essentially for regulation of funds via regulation of management boards and other fund officials. There appears to be no reason in principle why the regulator of retirement funds should not also regulate retirement savings products through regulation of the product suppliers, provided that there is no duplication of matters regulated under other Acts such as the Long-Term Insurance Act, the Banks Act and other Acts governing financial institutions. Simple, focussed product approval and reporting processes would be required. It would seem

to be possible to devise regulation that would not add more regulatory burden and cost than would be entailed in regulation of additional retirement funds.

PROPOSED FRAMEWORK

The following is proposed :

1. Regulation would set out requirements for a retirement savings account or product. This would include
 - Limitation on the number of possible investment vehicle choices, eg, to money market or balanced or capital guaranteed portfolios.
 - Access limitations, eg, to one cash withdrawal before age 55, after which access could be only by means of applying the entire investment to the purchase of an annuity.
 - Rights of investors to transfer savings between product providers, eg, on one month's written notice and subject to any investment conditions disclosed before investment.
 - Compliance reporting procedures from the product provider's compliance officer to the regulator ,eg, certification of compliance with approval conditions, figures on product investments and outflows and charges, copies of communications to investors.
 - Complaints procedures and forums (including class action rights). This could fall under the financial services ombud.
 - Product approval process, eg, including information to be supplied to the regulator such as the product business plan, investment portfolios, ancillary benefits, investor communication plan, charge bases, actuarial sign-off of reasonable benefit expectations, auditor's administration adequacy certificate especially for product offerings to groups.
 - Group representation requirements, eg, fit and proper requirements of agent for group, mandate minima, agent nomination proof.
2. A product provider would have to apply to the regulator to have his retirement savings product approved before he could bring it to market.
3. Individuals and groups would be able to invest in the product.

4. Group participation would be by individuals using a broker or another person or persons appointed by that group of individuals (this may be a group of employees). The product provider would be required to have documentary proof of the agency relationship established by the group. Rules would have to govern the establishment and dissolution of group participation. The cost consequences of moving into and out of a group would have to be disclosed to the investor (it is probable that costs, esp. of ancillary risk benefits would be lower in such a group). Administration capacity of the product provider would be key to group participation, and statements on such could be a condition of continued approval for group product offerings.
5. The group participants and individual participants would have the right to move to another product provider without penalty. Investment in a product should require disclosure of conditions attached to movement out of the product, such as those imposed by the nature of the portfolios invested in and recoupment of reasonable unrecouped expenses.

ADVANTAGES

The advantages of such an arrangement over the traditional retirement fund model would be

- Resolution of the conflict of interest problem afflicting trustees of funds tied to the sponsor
 - Simplicity
 - Competition
 - Low cost
- } depending on formulation of regulation

DIAGRAM

