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Chris Walker, Vice President
chris.walker@invesco.com | 416.324.7665

Dario Di Napoli, Business Development Associate
dario.dinapoli@invesco.com | 416.324.6181

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P) 527136.1.0 F) 527134.1.0 FRS-10084 07/09
Did you hear the joke about the Canadian provinces that want to reform the pension system so more workers in the private sector can get some form of employer pension plan?

The punchline is ‘Ontario.’

Here’s why.

75 Per Cent

Provincial ministers met recently to discuss reforming the pension system to help that 75 per cent of Canadian workers in the private sector who will never be a member of an employer pension plan. Following that session, Ontario’s minister of finance, Dwight Duncan, started talking about how Ontario wasn’t willing yet to buy into a plan put forth by Alberta and British Columbia to set up a sort of super-MEPP, one of the recommendations from that region’s joint commission on pension reform.

We also don’t buy into arguments that each province should have its own plan. We don’t see how giving more Canadians access to employer-related retirement savings increase the income for some elderly people?

Back to the point, let’s not forget that Ontario’s own Expert Commission on Pensions late last year made a similar call for a plan to provide for workers who have no pension plan. We guess that isn’t ‘study’ enough for Ontario.

This isn’t about the fact that we haven’t heard a peep from Duncan or his people about doing an interview with Benefits and Pensions Monitor on pensions – a request made face-to-face with the minister at a Blake, Cassels & Graydon seminar this spring.

We also don’t buy into arguments that each province has unique insights into the pension needs of its residents. A pension is a pension and we would contend that 100 per cent of retired Canadians don’t care that their Canada Pension Plan cheque comes from Ottawa, not Toronto or Victoria.

Indeed, the biggest joke on Canadian workers is that we don’t have a national pension regulatory body, leaving the administration and regulation of one of the most important issues in our lives to a collection of provincial fiefdoms and baronies.

Duncan contends that a good deal of retirement income comes from outside the pension system. We don’t disagree with that, but comments like this merely muddy the issue. The issue is not how Canadians can save for retirement outside of the current system. It is about all those Canadians in the private sector who will likely never have a retirement savings plan through their employer.

The simple solution is the one advocated by CARP and various union groups – increase the amount paid by the Canada Pension Plan. How-

The Joke’s On Us

Ontario does not reject the western proposal. However, it feels it needs more study. The new pension scheme could benefit some workers, but might limit other savings options for workers and would not address issues such as income adequacy for the elderly. (That last point really confuses us. Doesn’t giving more Canadians access to employer-related retirement savings increase the income for some elderly people?)

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Andrew Knapp is eastern regional manager of the special markets group at Industrial Alliance Pacific Insurance and Financial Services Inc. Based in Toronto, ON, he will be responsible for sales, underwriting, and claims in Eastern Canada.

Jean-François (J-F) Courville is president and chief executive officer at MFC Global Investment Management. Previously, he was president and chief operating officer. He joined the company in 2007 from State Street Canada where he had served as president and CEO since 2005. Francoys Levert is managing director, sales and relationship management. He will lead sales and relationship management efforts in Quebec and in Eastern Canada. Previously, he was a managing director with State Street Global Markets, responsible for institutional foreign exchange sales activities in Canada.

Jennifer Newman is vice-president, investment finance operations, for the Ontario Teachers’ Pension Plan (Teachers’). She joins the fund from the Canadian Imperial Bank of Commerce, where she was vice-president, process reengineering and special projects.

John Poos is executive director of the OMERS Sponsors Corporation. Most recently, he was director, global pensions, at Nortel Networks Limited where he had oversight responsibilities for the design, administration, and investment strategies for more than 75 pension and ancillary benefit plans worldwide. Prior to joining Nortel, he was general manager, law and pension investments, at Stelco. He is a member of the editorial board of Benefits and Pensions Monitor. The Sponsors Corporation represents employer, employee, and retiree members of the plan and has responsibility for plan design.

Christine Horoyski, senior vice-president and portfolio manager, fixed income, will now have overall responsibility for all fixed income portfolios at Aurion Capital. Derek Johnson is director, fixed income. Previously, he worked on the bond desk for a major Canadian bank and for an investment management firm, where he was responsible for credit and equity analysis.

Diane Pion is client services manager at Hewitt Associates’ Montreal, QC, office. More recently, she was director, benefits shared services, for the Canadian operation of a global life sciences company. In her new role, she will focus on maintaining strong relationships with Hewitt’s outsourced administration clients in Quebec.

Greg Stevenson is pension administration growth leader for Watson Wyatt Worldwide in Canada. He is responsible for business development activities with a focus on Canadian pension administration opportunities for current and prospective clients. He most recently served as director of Defined Benefit business at another consultancy.

Steve Bradie will assume the post of CEO at Green Shield Canada when J. David Garner retires. Bradie is currently executive vice-president and chief operating officer. He joined the company in 1987, gaining experience in finance, human resources, and claims administration.

Antoinette Blunt is board chair for the Human Resources Professionals Association. She is president of Ironside Consulting Services Inc., an HR consultancy in Sault Ste. Marie, ON, specializing in the provision of human resources, labour relations, and management services for employers in Northern Ontario.

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Pension Moratorium Approved

The federal government will allow Air Canada a 21-month moratorium to plug a hole in its pension plan. It will be allowed to waive payments to fund the $2.9 billion deficit in its pension plan until April 2011. Air Canada had a $100 million pension payment due on July 30 and another $60 million due two weeks later. It says a sharp drop in global travel and competition in Canada prompted the need for the pension moratorium to help it avert its second bankruptcy filing in six years. The company’s five unions and retirees have agreed to the plan.

CIA Supports Summit Proposal

The Canadian Institute of Actuaries supports a proposal to the federal government to host a national summit on retirement income. Such a summit would formally take action to address critical long-term pension and retirement savings issues, it says. It says the outcomes of the summit should include an agreement on a timetable and road map to extend Defined Benefit pension plan coverage in the private sector, as well as a timeframe for harmonizing pension laws and regulations across the country.

Restructuring Issue Addressed

A thorny restructuring issue affecting umbrella operations has been addressed in detail by Ontario’s Financial Services Tribunal, say Priscilla H. Healy and John R. Varley, of Fogler, Rubinoff LLP. If a single pension plan is made available to all employees of an organization which operates through separately-incorporated and independent “branches,” and some of those branches become insolvent, there was some uncertainty as to whether the plan in question was a multi-employer pension plan (MEPP), or a single employer plan (SEPP). The Tribunal says that each branch has its separate obligations as ‘employers’ with respect to those plan members who received their ordinary remuneration from that particular entity. The branches were the only ‘employers’ as regards to wind-up liability for their separate groups of ‘employees.’

Guggenheim Acquires Claymore

Claymore Group Inc. and its associated entities – including Claymore Securities, Inc.; Claymore Advisors, LLC; and Toronto-based Claymore Investments, Inc. – will become wholly owned subsidiaries of Guggenheim Partners. Claymore Investments manages a family of 23 exchange traded funds and three closed-end funds.

Blakes Expands To Gulf

Blakes is establishing a significant presence in the Gulf Region. It has formed an exclusive association with the firm of Dr. Saud Al-Ammari in Al-Khobar, Saudi Arabia, and will be opening an office in Bahrain. Both offices will open in the fall. Leading the initiative is Dan Fournier, who is currently a senior partner in the energy and finance practices. Dr. Al-Ammari will be joining Blakes as a partner and will be the managing partner of the offices in the region.

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Canadian Companies Support Reforms

Canadian companies and financial institutions’ levels of support for a broad slate of reforms aimed at financial regulations are among the world’s highest, says Greenwich ‘Market Pulse.’ Its survey of the world’s biggest asset managers, corporations, banks, and pensions, including 32 in Canada, found Canadian companies and financial institutions expressed strong levels of support for many of the most important reform proposals currently being debated around the world. Almost half are in favour of the establishment of a government entity to regulate systemic risk, almost two-thirds favour major reforms of global derivatives markets, and a full 83 per cent support tighter regulations for hedge funds.

Private Plans Well-funded

Most private Defined Benefit pension plans at large Canadian companies appear to be well funded, says research from DBRS. Its review of 70 DB plans with $149 billion in reported plan obligations and $141 billion in plan assets shows most are “in a relatively strong position, considering the poor equity market performance and falling interest rates that have affected returns and increased the size of total obligations.” Aggregate funding for companies reviewed in 2008 was approximately 92 per cent of pension obligations, a relatively moderate drop from the comparable 98 per cent level in 2007.

Pension Council Appointed

Ontario has appointed 13 members to its Advisory Council On Pensions And Retirement Income. The members, who all have significant knowledge of pension issues, reflect a range of stakeholder perspectives. Together, they will provide ongoing advice to the minister on pension reform proposals and help keep the government informed on stakeholder viewpoints. The council members are Jennifer Brown, Dona Campbell, Patrick F. Flanagan, Jeffrey S. Graham, William E. Kyle, Dick McIntosh, Jim Murray, Mary Picard, Allan Shapira, Byron Spencer, Monica Townson, David Vincent, and Mark Zigler. Ontario’s Expert Commission on Pensions recommended the creation of the advisory council.

Teachers’ Wants Voting Disallowed

The Ontario Teachers’ Pension Plan (Teachers’) is urging Canadian securities regulators to disallow companies from voting newly issued shares acquired in private placements with the apparent purpose of swaying the outcome of takeover bids. It has asked securities commissions in Alberta and Ontario to preserve shareholders’ rights in connection with corporate mergers by disallowing tactics such as those used in Paramount Energy Trust’s proposed takeover of Profound Energy Inc.
Breast cancer’s impact on families and individuals is undeniable. It is the most common cancer among Canadian women with an average of 437 women diagnosed each week. An estimated 22,700 new cases will be diagnosed in 2009 and 5,400 will die of it.

While many of us are aware of the toll breast cancer can take on one’s health, relationships, family life, and emotional well-being, the effects in and on the workplace are often overlooked. As with many other conditions, a breast cancer diagnosis can result in significant time away from work, lost wages, and productivity for both the individual and a spouse or relative who is needed to share the care.

Understanding is Key

One of the most important things employers and managers can do is have an understanding of breast cancer, its diagnosis, and the treatment options available. Being knowledgeable and open can help both those directly affected and other employees feel more comfortable and avoid possible misinformation.

In any case, early screening is critical. According to the Canadian Breast Cancer Foundation, a breast lump or other symptom may be discovered during a routine screening mammogram or clinical exam. Once an initial cause for concern is found, further testing and information is necessary to determine if cancer is present. Mammogram, ultrasound, and biopsy are the most common diagnostic tests for breast cancer.

Two or more treatment methods are usually used in combination. Local treatment options include surgery and radiation therapy, while systemic treatment methods such as chemotherapy, hormone therapy, and HER-2 therapy affect the entire body. More treatment is usually given if there is concern that the cancer has spread.

Employees faced with telling their supervisors about their new diagnosis may feel anxious or worried about their employer’s reaction. Whether to request time off work – and how much – while undergoing treatment is often a difficult decision. While cancer treatments can have substantial side effects including fatigue, weakness, and nausea, they can also have substantial associated costs. The Ontario Breast Cancer Community Research Initiative (OBCCRI) estimates that average out-of-pocket expenses for things such as travelling to treatments, accommodation, prescription drugs, and in-home healthcare average nearly $600 each month. This makes working during and after treatment – despite the side effects – a necessity for many people battling the disease.

However, due to treatment schedules and recovery, many employees are still not able to work as much as they’d like. A study reported by the OBCCRI found that people undergoing cancer treatment needed an average of 12.6 days off work each month.

With this in mind, workplace accommodation regarding leave is perhaps the principal way employers can help employees during this difficult time. According to the International Foundation of Employee Benefit Plans, “employers must strike a balance in supporting the employee, sustaining business objectives, and managing costs. These goals necessitate a framework for addressing the sensitive workplace issues that arise when an employee has a serious illness.”

Changes to work assignments – such as in timing or prioritization of work, the type of work assigned, job sharing, or providing a transfer to a mutually agreed upon position – are often necessary. Some of the ways managers can most easily accommodate an employee’s scheduling needs during treatment include reducing work hours, providing a flexible schedule, offering additional breaks, and allowing telecommuting when possible. Employers can also assist by offering some of these accommodations to spouses or family members who are supporting loved ones.

Raising awareness for breast cancer and encouraging self-care is key. According to the Canadian Cancer Society, breast cancers found in women who have regular mammograms are usually smaller and more treatable, making these women more likely to survive the disease. Treatments for cancer detected in the early stages are generally shorter and less intensive, which reduces time away from work needed for treatment and recovery.
Most of Canada’s top money managers take advantage of consultant databases to market their services to consultants and prospective clients, but inconsistencies in the way competing databases collect and sort information make it difficult to populate them effectively, says a study by the Professional Association for Investment Communications Resources (PAICR).

More than two dozen of Canada’s largest money managers responded to a series of surveys conducted by PAICR over a two-year period. The results have been published in a white paper entitled ‘PAICR Canada: A Data Study of the Institutional Investment Industry.’ Gail Prins-Visser, of McLean Budden Ltd. in Toronto, ON, chaired the PAICR committee that conducted the research.

Better Results

“We want to help money management firms achieve better results from consultant databases,” says Prins-Visser. “Strategies for successful database management has always been a hot topic at PAICR conferences, roundtables, and member calls. This research project was designed to identify some of the specific challenges we’re facing and make recommendations for improvement.”

The study’s methodology was to go directly to the source and ask database experts within each money management firm how their organization interprets various aspects of consultant databases and how they input data based on those interpretations.

Here are some recommendations based on the white paper’s many findings:

- **Simplify assets under management (AUM) categories** – Managers find it difficult, and sometimes even impossible, to interpret and respond to the various ways databases ask them to slice and dice AUM information.

- **Create common client categories** – Managers would find it helpful to have standard categories to describe retail (mutual funds, high net worth individuals, and wrap programs) and pension (corporate, public, and multi-employer or Taft Hartley) clients.

- **Standardize methods for counting clients** – Managers are currently split nearly 50/50 about whether to count each individual account as a separate client, or to group related accounts together and count them as a single client.

Overall, the need for greater clarity and standardization emerged as strong themes. “Firms are good at answering clearly-defined questions, but there is a lot of inconsistency when questions are more open-ended. Our research also suggests that greater standardization of data categories will help money managers provide more accurate data, which can assist consultants and investors to make better comparisons,” says Prins-Visser.

**Inconsistent Data**

She also noted that money managers share some responsibility for inconsistent data. For example, there does not appear to be an industry consensus on how managers should account for the duties of portfolio managers, research analysts, marketing, and client service professionals when these duties overlap, or when the portfolio manager or analyst covers more than one asset class.

The research was conducted by a PAICR committee that included Gail Prins-Visser (McLean Budden Ltd.), Lina Bowden (AGF Asset Management), Lori Ferringo (Addenda Capital), Paul Hartman (Greystone Managed Investments), Kerry Longlade (Highstreet Asset Management), Aaron Pittman (AGF Asset Management), and Patrick Sullivan (CIBC Global Asset Management).

PAICR members can download the complete white paper free of charge at www.paicr.com.

### Making Consultant Databases Work Better

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* At the time of the PAICR survey, eVestment Alliance maintained separate regional databases. They have since been merged into a single database.
Kerry, Monsanto, Hembruff, Hydro Quebec … all have captured the attention of pension plan sponsors and the legal community in recent years as these cases worked their way through the courts. The ever-growing number of cases, it seems, also makes it appear that pension litigation is on the upswing in Canada.

However, those working in the frontlines of Canadian pension law – the lawyers at some of the country’s leading law firms – paint a slightly different picture as to whether or not there has been an increase in the amount of pension litigation taking place these days.

**Jeff Galway**
Blake, Cassels & Graydon LLP

Pension litigation has been a growth area over the last five years with plan sponsors and plan members fighting over the use of surplus in pension plan funds, will be litigation and this has been the case in the pensions arena for years. As well, pensions have a higher profile now, perhaps more than at any time in the past, and the financial implications are larger.

However, much of the cause of the problems is with legislation and regulatory policy and he predicts “we will definitely see an upswing in new pension legislation.”

**Mark Newton**
Heenan Blaikie LLP

An upswing in pension litigation is not likely in Newton’s opinion.

He admits that wherever the stakes are high, there saw many ‘friendly’ class actions in which employers and pension plan members sought judicial approval of surplus sharing agreements,” he says. However, as actuarial surpluses have evaporated in the light of market turmoil, these types of litigation have become less common and are likely to remain so while the recession lasts.

On the other hand, for some years there has been an increase in litigation over pension fund shortfalls in DB plans. For example, it is also becoming increasingly common for deficits to arise in circumstances in which there is no sponsor able to fund the shortfall – either because the sponsor is insolvent or because the plan is a multi-employer plan and the employers may not be legally required to make additional contributions. When this occurs, the plan may be wound up and members’ benefits reduced. With increasing frequency, members are suing not only plan sponsors, but also any other party that played a role with respect to the administration of the pension plan or fund.

A final area where more litigation may occur is Defined Contribution plans. “In the past, these types of plans have generated little litigation in Canada. If recent U.S. trends spill across the border, however, we can expect to see more such litigation, particularly with respect to management fees, alleged conflicts of interest, and negligent investment advice,” says Kremer.
Priscilla Healy
Fogler, Rubinoff LLP

Healy takes a middle ground view. She says expectations as to an upswing occurring in DB plan litigation will depend largely on the commentator’s perspective and “on factors outside our control.

The previous flood of class action proceedings, and the attractiveness of appeals to the Financial Services Tribunal and to the courts have been at least blunted by judicial decisions – including the recent Supreme Court of Canada decision in Kerry (see Page 35) – limiting the ability of employee groups to obtain awards of costs to fund such litigation.

The focus for the near future will be on defending pension rights in the insolvency proceedings of those employers whose lines of business have been hardest hit in the recession, says Healy. “Market return improvements and government stimulus funding will eventually spark confidence and enable better-managed companies to survive over the long run. The solvency deficiency relief now coming into play will also allow them to preserve enough cash flow that they need not take aggressive action to cripple pension benefits.”

Much will depend on whether (and when) the federal government proclaims the remaining employee protections of the 2005 and 2007 insolvency law reforms, and extends them into full play for Companies Creditors Arrangement Act (CCAA) proceedings. If that delay continues much longer, salaried employee and retiree groups and unions will have to mount strong attempts to persuade the courts to intervene on the side of protecting benefits, by giving more weight to employee concerns in their decisions as to how businesses should be restructured.

Lisa Mills
Hicks Morley

Alternatives to DB plans and solvency relief will have an impact on the future direction of pension litigation, says Mills.

For many employers with long-standing DB plans, the key bargaining issue in 2009 is the introduction of a DC plan. “This is the first time that we have experienced employers willing to take a stand over this issue and, in some cases, employees who are effectively striking for their future co-workers where the employer’s proposal is to introduce a DC plan which applies to new hires only,” she says.

Finally, for DB plan deficits, the question is “how to strike the balance between investment in the business and funding pension plans for wind-ups that might never occur?” The recent wave of solvency funding relief across Canada reveals that every jurisdiction has a different view of how to strike that balance. The legislation also differs as to the input employees, retirees, and unions will have when employers propose to invest more in their business operations instead of the pension deficit. These are not easy compromises and in each case, a customized approach that meets the needs of each business needs to be developed.

Importantly, Mills says much litigation can be minimized “by ensuring transparency on pension funding decisions for all stakeholders.”

– Benefits and Pensions Monitor Staff
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PPH: 416-863-2264 eMail: sellerg@bennettjones.com Web: www.bennettjones.com

Key Members of Practice:

Margaret Mason, Decatur Howe, Andrew Harrison, National Leader, Pension & Benefits Practice at Firm Since: 1970

BORDEN LADNER GERVAIS LLP

R. Andrew G. Harri- son, Toronto; Scott McEvoy, Vancouver

PPH: 604-641-4905 Fax: 604-631-3336 eMail: wsm@blakes.com Web: www.blt.com

Key Members of Practice:

Margaret H. Mason, Partner; 3000 - 1055 West Georgia St., Vancouver, BC V6E 3R3 Ph: 604-641-4905 Fax: 604-646-2662 eMail: mhm@bht.com Web: www.blt.com Number of Lawyers in Benefits and/or Pensions Practice: 3 Key Members of Practice: Margaret Mason, Decatur Howe, Andrew Schaefer Benefits and/or Pensions Practice at Firm Since: 1960

CALEY WRAY

Harold Caley, Partner; 1600 - 65 Queen St. W., Toronto, ON M5H 2M5 Ph: 416-366-3763 Fax: 416-366-3293 eMail: caleywr.com Web: www.caleywr.com Number of Lawyers in Benefits and/or Pensions Practice: 2 Key Members of Practice: Harold Caley, Toronto; Michael Church, Toronto Benefits and/or Pensions Practice at Firm Since: 1980

CASSELLS BROCK LLP

John McGowan; 2100 Scotia Plaza, 40 King St. W., Toronto, ON M5H 3C2 Ph: 416-869-5780 Fax: 416-350-6931 eMail: jmcmgowan@cassestyles.com Web: www.casselsbrook.com

Number of Lawyers in Benefits and/or Pensions Practice: 9 Key Members of Practice: Susan G. Seller, Toronto; James A. D’Andrea, Calgary Benefits and/or Pensions Practice at Firm Since: 1994

BLAKE, CASSELS & GRAYDON LLP

Kathryn M. Blake, Partner; 3400 199 Bay St., Toronto, ON M5L 1A9

Ph: 416-863-2633 Fax: 416-863-2653 eMail: kathryn.bush@blakes.com Web: www.blakes.com

Key Members of Practice:

Number of Lawyers in Benefits and/or Pensions Practice: 25 Key Members of Practice: Kathryn Bush, Jeremy Forgie Benefits and/or Pensions Practice at Firm Since: 1994

BULL HOUSSER & TUPPER LLP

Margaret H. Mason, Partner; 3000 - 1055 West Georgia St., Vancouver, BC V6E 3R3 Ph: 604-641-4905 Fax: 604-646-2662 eMail: mhm@bht.com Web: www.blt.com

Key Members of Practice:

Margaret H. Mason, Decatur Howe, Andrew Harrison, National Leader, Pension & Benefits Practice at Firm Since: 1970

BENNETT JONES LLP

Susan G. Seller, Partner; 3400 199 Bay St., Toronto, ON M5L 1A9

Ph: 416-777-5638 Fax: 416-863-1716 eMail: sellergs@bennettjones.com Web: www.bennettjones.com

Key Members of Practice:

Number of Lawyers in Benefits and/or Pensions Practice: 3 Key Members of Practice: Susan G. Seller, Toronto; James A. D’Andrea, Calgary Benefits and/or Pensions Practice at Firm Since: 1994
CAVALLUZZO HAYES SHILTON MCINTYRE & CORNISH LLP
Hugh O’Reilly; 300-474 Bathurst St., Toronto, ON M5T 2S6
PH: 416-964-5514
Fax: 416-964-5895
eMail: horeilly@cavalluzzo.com
Web: www.cavalluzzo.com

DAVIES WARD PHILLIPS & VINEBERG LLP
Natasha vandenHoven, Partner – Pensions and Benefits; 1 First Canadian Place, 44th Floor, Toronto, ON M5X 1B1
PH: 416-863-5521
eMail: nvandenhoven@dwpv.com

DAVIS LLP
David Stratton, Partner; Edmonton, AB
PH: 780-426-5330
Fax: 780-428-1066
eMail: dstratton@davis.ca
Web: www.davis.ca

FOGLER, RUBINOFF LLP
John R. Varley, Partner; 95 Wellington St. W., Toronto, ON M5J 2Z9
PH: 416-864-9700
Fax: 416-941-8852
eMail: jvarley@foglers.com or phealy@foglers.com
Web: www.foglers.com

GOODMANS LLP
Jana Steele, Partner; 250 Yonge St., Toronto, ON M5B 2M6
PH: 416-979-2211
Fax: 416-979-1234
eMail: jsteele@goodmans.ca
Web: www.goodmans.ca

GOWLING LAFLEUR HENDERSON LLP
Clifton P. Prophet; 1 First Canadian Place, 100 King St. W., Ste. 1600, Toronto, ON M5X 1G5
PH: 416-862-3509
Fax: 416-862-3509
eMail: clifton.prophet@gowlings.com
Web: www.gowlings.com

HEENAN BLAIKIE LLP
Mark Newton, Lawyer; 333 Bay St., Ste. 2900, Box 2900, Toronto, ON M5J 2T4
PH: 416-643-6855
Fax: 416-360-8425
eMail: mnewton@heenan.ca
Web: www.heenanblaike.com

HICKS MORLEY HAMILTON STEWART STORIE LLP
Elizabeth M. Brown, Partner, Chair of Pension and Benefits Practice; TD Tower, 66 Wellington St. W., 30th Floor, Box 372, Toronto, ON M5K 1K8
PH: 416-864-7210
Fax: 416-362-9680
eMail: elizabeth-brown@hicksmorley.com
Web: www.hicksmorley.com

KOSKIE MINSKY LLP
Mark Zigler; 20 Queen St. W., Ste. 900, Box 52, Toronto, ON M5H 3R3
PH: 416-595-2090
Fax: 416-977-3316
eMail: mzigler@kmlaw.ca
Web: www.koskieminsky.com
Fogler, Rubinoﬀ LLP’s pension group advises as to pension and employee beneﬁts law, including advising as to restructurings, pension surplus issues, mergers and acquisitions, compliance, plan governance and plan administration.

Pension & Beneﬁts

John R. Varley, Partner 416.941.8863 jvarley@foglers.com
Priscilla Healy, Consultant 416.864.7607 phealy@foglers.com

Labour & Employment Law

Stephen A. Bernofsky, Partner 416.941.8879 sbernofsky@foglers.com
Andrea D. McCrae, Associate 416.365.3703 amccrae@foglers.com

Fogler, Rubinoﬀ LLP is a full service business law ﬁrm of more than 90 lawyers providing legal services and advice to established and emerging businesses and individuals.
How can you ensure the worst possible returns for your clients?

An unlikely question among investment professionals, to be sure. However, often the best insights are gained by approaching a problem through an inverted lens. The approach has been utilized successfully by Carl Gustav Jacob Jacobi, the Prussian mathematician; Johnny Carson, former host of the Tonight Show; and Charlie Munger, Warren Buffett’s right-hand man. As Jacobi would say, “invert, always invert.”

Investment death is simple. It comes from portfolios with low expected returns where the risk of permanently impairing capital is high. A lottery ticket is the perfect analogy. The expected return is less than what is paid and the risk profile provides a very high probability of permanent capital impairment. How much can you sell an old lottery ticket for?

Munger, a master in the art of inversion, once made an enlightened commencement speech based on one originally done by Johnny Carson, on “How to lead a miserable life.” This article is written in homage to their efforts and prescribes the actions required to achieve a miserable investment portfolio. The aim is to help readers invert their thinking and avoid investment death. We hope readers are more successful investors as a result.

**How To Earn Bad Returns**

Restrict yourself to the smallest investment universe possible. Limit your opportunity set, so that you reduce the chance of finding true bargains. It is wise for investment managers to organize themselves so that capital is allocated in narrow silos. Specifically, have analysts allocate time between a handful of stocks in a single industry, in a single country, providing buy and sell recommendations on a relative basis. This narrow focus will ensure that capital will be over-allocated to poor industries and under-allocated to ones with many opportunities.

Investing in only one country ensures the full exposure to the risks associated with that country. It is a head start towards significant black swan risk (or your very own Iceland scenario). This way, a client has the potential to really maximize losses. They will be fully exposed to political risks or events like Dutch disease (when a commodity-led boom leads to currency appreciation, thereby suffocating the local manufacturing industry). If you are fortunate enough to choose a country experiencing such changes, you will no doubt be successful in your goal.

**Confuse Value And Price**

The goal of earning poor returns will be greatly advanced by confusing value and price. First, pursue strategies that will leave your clients exposed to absolute risk (the permanent impairment of capital). Choose strategies that fail to safeguard clients against investment bubbles. The negative impact could be exponentially higher than the fees saved. Shun active managers that are actually able to mitigate the risk of the madness of crowds due to a disciplined investment approach. Do not engage in more niche active management strategies where the fees are consist-
Do not forget to set the environment with poorly conceived incentives. The incentives for investment managers should skew risk and reward negatively for clients. A must is the 2/20 compensation model, which rewards investment managers for taking more risk, even though it is the client’s capital that is really at risk. When the market turns sour, client returns are more severely impaired as a result. Optimally, the investment manager should not have an ownership stake to align their interests as they may not share the goal of poor risk-adjusted performance.

**Destroy Wealth**

Select manager styles that substitute losing strategies for winning strategies. Investment returns can be permanently impaired when managers invest in securities that don’t make money, significantly expediting our goal. Despite the advancement of capitalism, there are plenty of opportunities to invest in losing games. Some of these include:

- Junior exploration stocks – This category includes businesses with no producing properties, but plenty of prospects. It is best that the company is burning cash and has a negative expected payout. These companies are notorious for raising equity, diluting investor interests. There is no need for managers to focus on valuation when the intuitive method can be used to evaluate these stocks.

- Invention or concept stocks – These are usually accompanied by a slick video presentation and product samples, but place less emphasis on financial statements. The goal is aided most when there is no business model to tie the story back to reality.

- Zero discount rate investments – These include investments in assets that don’t produce a stream of cash flow for investors and have to be ‘wished’ higher to make money. The all-time favourite no-discount rate investment is gold, which has a cost of carry – you have to pay someone to store it for you (see Exhibit 1).

   Companies that make money but destroy wealth also contribute to poor investment returns. Nothing is more delightful than a business that allocates capital at five per cent when its cost of capital is 10 per cent.

**Invest Emotionally**

One of the most significant ways an investor can ensure investment death is to accentuate all that is human when making investment decisions. Emotions, mental short cuts, and overconfidence will guarantee your portfolio is the worst it can be.

Invest only when you feel completely at ease with the stock market. This will ensure you maximize your opportunity to buy high and sell low. Do not take advantage of the extreme fear and hubris that pushes investors to buy or sell at any price. In fact, to achieve the worst possible portfolio, follow their lead! Warren Buffett suggests being “fearful when others are greedy and greedy when others are fearful.” This must be avoided if investors want to overpay for securities purchased and receive as little as possible for securities sold.

The human brain feeds on positive reinforcement, which is why a bull market reinforces our notion that it is an ever-better time to invest. Conversely, when prices are falling, it is perceived as a worse time to invest. The human brain happily ignores the logic that lower prices mean better value, all things being equal. So, fortunately for those attempting to experience investment death, investing emotionally comes with very little effort at all.

The brain uses heuristics (mental short cuts) to simplify complex decisions. This tendency will move us closer to the goal of investment death. One example is equating action with effort. A high turnover portfolio has a great deal of activity, which an investor in search of poor returns should equate to a lot of effort. The portfolio also has higher costs. If commissions and taxes are a win for brokerage firms and governments, the pie must be getting smaller for clients. Fortunately, nearly all of the investor population suffers from an overconfidence bias, leading to significant portfolio churn in the industry, and greater transaction costs for clients.

Human factors and overconfidence contribute to investment bubbles like the recent housing bubble, the Tech bubble, the Japanese bubble, the Florida Land Boom, the Dutch Tulip Craz, and the South Sea bubble. Bubbles are a great way to lose money in the market. Investors should be guided by their emotions and, in the face of overwhelming logic, should concoct elaborate stories to justify exorbitant valuations (brick and mortar businesses will disappear because of the Internet). You may need to temporarily suspend your understanding of reality when prices rise without reason. If you do realize that you are investing in a bubble, try to time it. Playing chicken with a financial bubble is an efficient way to ensure poor returns. Maximum focus on short-term returns and relative positioning compared to a benchmark will strengthen this effect.

If you can restrict yourself to the smallest investment universe possible, confuse value and price, destroy wealth and invest emotionally, you will be well on your way to achieving dismal investment returns.

Lastly, for miserable returns and a miserable life:

“Learn nothing vicariously through others and the lessons history has to teach.”

(Munger)

Paul Moroz is portfolio manager, global small cap equities, (pmoroz@mawer.com) and David Ragan is portfolio manager, international equities, (drgan@mawer.com) at Mawer Investment Management Ltd.
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Heightened risk aversion during the global recession pulled many investors away from the equity markets. However, recent glimmers of economic hope have helped ease investor wariness and have sparked new interest in equities, specifically in emerging markets.

Following months of dramatic underperformance, including their worst month on record in October 2008, emerging markets have outpaced the developed markets year-to-date. The MSCI EM Standard Index gained 17.9 per cent through April 30, 2009, against respective declines of 2.5 per cent and 2.7 per cent for the S&P 500 and MSCI EAFE Standard indices. Investors have been jumping on the rally, reversing the sharp outflows that accompanied the dramatic decline in commodity prices that began in mid-2008.

This change in direction marks a major shift in investor perception as they see that emerging markets and greater profitability.

In addition, because many emerging markets companies began deleveraging their balance sheets following the crises of the late 1990s and early 2000s, their debt-to-equity ratios have remained roughly steady at about 55 per cent. The debt-to-equity ratios in developed markets, which hovered close to 100 per cent before the present credit crunch, have dropped to just over 49 per cent for non-U.S. developed markets and 60 per cent for the U.S. as a result of forced deleveraging.

It is noteworthy that emerging markets companies achieved significant improvement in their return on equity (ROE) even as they deleveraged after their late 1990s/early 2000s crises, and their ROE remains attractive relative to that of developed markets. A favourable ROE based on a strong balance sheet with limited leverage provides downside protection. Unlike highly leveraged companies, those with less leverage can more easily maintain their current ROEs without any additional growth in earnings, or even with some earnings declines, simply by taking on more debt and using it appropriately.

Contrary to the ‘decoupling’ argument put forth by many observers, emerging markets proved not to be completely immune to events in the global economy. While trade among the emerging countries has gained importance, countries such as China, Taiwan, South Korea, and Mexico still rely heavily on exports to the developed world.

Emerging market economies started out in a far
stronger position to weather the global downturn than their developed counterparts. Their financial institutions had limited exposure to global credit problems, focusing instead on traditional loan growth in their own countries. In addition, we continue to see healthy investment-led growth in many emerging economies. Public and private capital has been flowing into significant infrastructure projects in India, China, the Middle East, and Russia. These investments, along with growing domestic consumption, have helped provide some protection from weaker export demand.

Most important, emerging markets are sound at the macro level, having generally addressed their fiscal imbalances, improved their balance of payments, lengthened the maturities of their obligations, and increased their levels of foreign reserves. A growing number have established, or enlarged, economic stabilization funds and/or sovereign wealth funds, further reducing their external vulnerability and giving them the means to help sustain domestic growth through interest rate reductions, fiscal stimulus, and other qualitative initiatives. Although current account balances have dropped since the beginning of the market turmoil, they remain well above those in developed markets and are expected to recover in coming years.

All of this indicates that as we move past the worst part of the global credit malaise, emerging markets should be able to rebound relatively quickly, without having to rebuild financial systems. We believe that emerging markets likely bottomed in October 2008 and that the worst part of the crisis is behind us. However, the recovery process takes time and can include many false starts. We expect continued volatility until a more consistent and positive global environment takes hold.

In light of the very strong performance in emerging markets prior to the 2007 global equity market peak, we view periodic corrections such as those last year as digressions in a long-term upward trend. In fact, such corrections offer a second chance to investors seeking exposure to the asset class, allowing them to purchase stocks at bargain prices. Experience has shown that buying emerging markets stocks during a correction period has generally been profitable for intermediate- to longer-term investors.

Engines Of Global Growth

Emerging markets – especially China, India, and Brazil – are expected to provide much of the global growth for 2009. The International Monetary Fund estimated in January that emerging economies will expand more than three per cent this year versus a two per cent contraction for advanced nations.

CHINA

With ample government resources and a commitment to sustain its economy, we expect China to provide an even greater proportion of global growth this year than in 2008, though at a slower pace. China’s near-term objective is to increase domestic consumption through interest rate cuts and enormous spending programs directed at infrastructure build-out and energy-related projects. To that end, the number of loans year-to-date through April exceeded the total for all of 2008.

INDIA

Although growth in India has decelerated – from about nine per cent before the current crisis to growth projections ranging from four per cent to as high as seven per cent for 2009 – the economy continues to expand. India’s just-completed national elections surprised on the upside, creating a powerful coalition government that should be able to push through economic and social reforms to help strengthen the country’s global competitiveness.

BRAZIL

Resource-rich Brazil, which benefits from the recent stabilization in commodity prices, has been a leader in the year-to-date surge for emerging markets. Like China and India, Brazil owes much of its economic strength to a growing middle class and rising domestic demand. In addition, Brazil is the world’s most efficient producer of ethanol and a huge generator of hydroelectric power, putting it at the forefront of global energy development. It is also an increasingly important trading partner for China, which just surpassed the U.S. as its biggest export market.

Excellent Long-Term Outlook

Based on their demographics and sovereign health, emerging markets offer excellent opportunities for investors with longer-term horizons.

In addition, these markets remain undercapitalized. Developing economies represent more than 75 per cent of both world population and land mass, more than 70 per cent of foreign reserves, and nearly 50 per cent of GDP (measured at purchasing power parity), but still only 12 per cent of float-adjusted market capitalization.

Although the current global downturn has demonstrated that emerging markets remain susceptible to global economic forces, their macro-economic strength and greater independence from the developed markets have positioned them for further progress. Urbanization and industrialization continue at a fast pace, creating millions of new jobs with higher wages and increasing domestic consumption. Emerging markets governments are more responsive to their citizens than at any time in history and are developing the infrastructure to meet their needs and aspirations. The rising income level is also a source of funds for global investment.

With their combination of low valuations, superior growth prospects, and, most important, solid balance sheets at the sovereign, corporate, and household level, developing markets will provide a growing source of attractive opportunities and perform well over the long run.

David W. Lazenby is director and senior portfolio manager of the emerging markets team at Batterymarch Financial Management Inc., a wholly-owned independently managed subsidiary of Legg Mason, Inc.
2009 Directory

EAFE & EMERGING MARKETS


ACADIAN ASSET MANAGEMENT LLC Churchill Franklin, Executive Vice-president, Director of Marketing & Client Service; One Post Office Square, 20th Floor, Boston, MA 02109 PH: 617-850-3500 Fax: 617-850-3501 eMail: bcf@acadian-asset.com Web: www.acadian-asset.com

AGF MANAGEMENT LTD. Gary Wing, Senior Vice-president; 66 Wellington St. W., TD Tower, 31st Floor, Toronto, ON MSK 1E9 PH: 416-865-4288 Fax: 416-865-4247 eMail: gary.wing@agf.com Web: www.agf.com

ALTRINIC GLOBAL ADVISORS, LLC Niels Andersen, Principal; 100 First Stamford Place, Stamford, CT 06902 PH: 203-324-6900 Fax: 203-921-1973 eMail: nandersen@altrinic.com

ARROWSTREET CAPITAL, L.P. Bruce Clarke, Partner, President; 200 Clarendon St., 30th Floor, Boston, MA 02114 PH: 617-919-0000 Fax: 617-919-0001 eMail: info@arrowstreetcapital.com Web: www.arrowstreetcapital.com

ARTIO GLOBAL MANAGEMENT LLC Jeff Horbal, Director, Institutional Investments; Brookfield Place, 161 Bay St., Ste. 2600, Toronto, ON MS2 51R PH: 416-862-2237 Fax: 416-862-2600 eMail: jhorbal@artioglobal.com Web: www.artioglobal.com

AURION CAPITAL MANAGEMENT INC. James Clark, Senior Vice-president, Business Development, 120 Adelaide St. W., Ste. 2205, Toronto, ON M5H 1T1 PH: 416-866-2445 Fax: 416-363-6206 eMail: jclark@aurion.ca Web: www.aurion.ca

AXIOM INTERNATIONAL INVESTORS LLC Shane McMahon, Vice-president - Marketing; 35 Railroad Ave., 3rd Floor, Greenwich, CT 06830 PH: 203-422-8036 Fax: 203-422-8030 eMail: smcmahon@axinvest.com

BAILLIE GIFFORD OVERSEAS LIMITED William Pacula, Director of Marketing; Baillie Gifford International LLC, 757 Third Ave., 17th Floor, New York, NY 10017-2013 PH: 212-319-4637 Fax: 212-319-4639 eMail: william.pacula@bailliegifford.com Web: www.bailliegifford.com

BARCLAYS GLOBAL INVESTORS CANADA LIMITED Eric Leevle, Head of Canadian Institutional Business; 161 Bay St., Ste. 2520, Toronto, ON MS2 2S1 PH: 416-643-4000 Fax: 416-643-4049 eMail: eric.leevelle@barclaysglobal.com Web: www.barclaysglobal.com


BLACKROCK Tom Goodrum, Managing Director; 40 East 52nd St., New York, NY 10022 PH: 212-810-3729 Fax: 212-935-1370 eMail: tom.goodrum@blackrock.com Web: www.blackrock.com

BNY MELLON ASSET MANAGEMENT Richard Terres, Senior Vice-president & Director of Marketing; 320 Bay St., Toronto, ON M5H 2E6 PH: 416-643-6354 eMail: richard.terres@bnymellon.com

BRANDES INVESTMENT PARTNERS, L.P. Clifford Schisron, Director - Institutional Services & Co-head of Fixed Income; 11988 El Camino Real, Ste. 500, San Diego, CA 92130 PH: 858-755-0339 Fax: 858-755-0916 eMail: rfps@brandes.com Web: www.brandes.com

BURGUNDY ASSET MANAGEMENT LTD. Kelly Battle, Vice-president; 181 Bay St., Ste. 4510, Brookfield Place, Toronto, ON MS2 7P4 PH: 416-869-3222 Fax: 416-869-9036 eMail: info@burgundyasset.com Web: www.burgundyasset.com

CAPITAL GUARDIAN TRUST COMPANY Michelle Savoy, President of Capital Guardian (Canada), Inc.; Brookfield Place, 181 Bay St., Ste. 3730, Toronto, ON MS2 7P4 PH: 416-369-0660 Fax: 416-815-2070 eMail: mrs@capgroup.com Web: www.capgroup.com

CIBC GLOBAL ASSET MANAGEMENT INC. Michel Jalbert, Vice-president, Head of Institutional Business Development & Marketing; 1000 de La Gauchetiere W., Ste. 3200, Montreal, QC H3B 4W5 PH: 514-876-6907 Fax: 514-875-9364 eMail: michel.jalbert@cibc.com Web: www.cibc.com

CORDIANT CAPITAL INC. David G. Creighton, President & CEO; Ste. 2400 - 110 Sherbrooke St. W., Montreal, QC H3A 2P7 PH: 514-286-1142 Fax: 514-286-4203 eMail: info@cordiantcapital.com Web: www.cordiantcapital.com

CORDIANT CAPITAL INC. Peter Hallett, Regional Director; 1520 - 1500 W. Georgia St., Vancouver, BC V6G 2Z6 PH: 604-685-1690 Fax: 604-685-1633 eMail: peter.hallett@dimensional.com Web: dimensional.com

DUNDAS INVESTMENT MANAGEMENT LLC Michael F. Sider, President; 175 King St. W., 22nd Floor, Toronto, ON MS2 7B1 PH: 416-862-2020 Fax: 416-862-2018 eMail: info@dundas.com Web: www.dundas.com

FIERA CAPITAL INC. Sam Reda, Vice-chairman; 1501, McGill College, Ste. 800, Montreal, QC H3W 2H5 PH: 514-954-3300 Fax: 514-954-3325 eMail: sreda@fieracapital.com Web: www.fieracapital.com

FORTIS INVESTMENT MANAGEMENT CANADA LTD. Christine Girvan, CEO; Simon Segall, Vice-president, Institutional Sales & Client Service; 225 King St. W., Ste. 901, Toronto, ON M5V 3M2 PH: 416-826-4400 Fax: 416-826-4429 eMail: christine.girvan@fortisinvestments.com; simon.segall@fortisinvestments.com Web: www.asset.fortis.com

FRANKLIN TEMPLETON INSTITUTIONAL* Duane Green, Senior Vice-president, Institutional Investment Services; 200 King St. W., Toronto, ON M5H 3J4 PH: 416-957-6165 Fax: 416-364-6643 eMail: dgreen2@franklintempleton.ca Web: www.franklintempletoninstitutional.ca *Franklin Templeton Investments

GE ASSET MANAGEMENT CORPORATION Keith Smith, President, GE Asset Management Canada; 2300 Meadowvale Blvd., Mississauga, ON L5N 5P9 PH: 905-858-6683 Fax: 905-858-5218 eMail: keith.smith@corporate.ge.com Web: www.geam.com

GOLDMAN SACHS ASSET MANAGEMENT, LP Steve McGuinness, Managing Director - Head of GSAM Global Distribution; 32 Old Slip, New York, NY 10005 PH: 212-902-1000 Fax: 917-343-8248 eMail: sheree.esco-bar@gc.com Web: www.gs.com

GREYSTONE MANAGED INVESTMENTS INC. Louis Martel, Managing Director & Chief Client Strategist; 300-1230 Blackfoot Dr., Regina, SK S4S 7G4 eMail: louis.martel@greystone.ca Web: www.greystone.ca

GUARDIAN CAPITAL LP Brian Holland, Senior Vice-president, Head of Client & Consulting Relationships; 199 Bay St., Commerce Court West, Ste. 3100, Toronto, ON M5L 1B9 PH: 416-350-3146 Fax: 416-364-9634 eMail: bholland@guardiancapital.com Web: www.guardiancapital.com

HEXAVEST INC. Robert Brunelle, Senior Vice-president, Head of Institutional Sales & Client Service; 225 King St. W., Ste. 3140, Montreal, QC H3B 4N4 PH: 514-390-1225 Fax: 514-390-1184 eMail: rbrunelle@hexavest.com Web: www.hexavest.com

GREystone Managed Investments Inc. Louis Martel, Managing Director & Chief Client Strategist; 300-1230 Blackfoot Dr., Regina, SK S4S 7G4 eMail: louis.martel@greystone.ca Web: www.greystone.ca

GWL INVESTMENT MANAGEMENT LIMITED, Patrick J. Clarke, Vice-president, Investment Counselling; 100 Osborne St. N., Winnipeg, MB R3C 3A5 PH: 204-946-8701 Fax: 204-946-8818 eMail: sara.mosher@gwl.com Web: www.gwl.com

HEXAVEST INC. Robert Brunelle, Senior Vice-president; 1100 Rene-Lesvesque Blvd. W., Ste. 1340, Montreal, QC H3B 4N4 PH: 514-390-1225 Fax: 514-390-1184 eMail: rbrunelle@hexavest.com Web: www.hexavest.com
2009 Directory

EAFE & EMERGING MARKETS

HOWSON TATTERSALL INVESTMENT COUNSEL
Randall O’Leary, Vice-president, Institutional; 180 Queen St. W., Toronto, ON M5V 3K1 PH: 416-227-1617 Fax: 416-979-7424 eMail: rolaley@mackenzieglobal.com Web: www.htic.ca

HSBC GLOBAL ASSET MANAGEMENT (CANADA)
Francis Chartier, Head of Institutional Investments; Ste. 300-2001 McGill College, Montreal, QC H3A 1G1 PH: 514-286-4539 eMail: francis_chartier@hsbc.ca Web: www.assetmanagement.hsbc.com

INTEGRA CAPITAL MANAGEMENT CORPORATION
Charles Swanepoel, Managing Director, Sales; 2020 Winston Park Dr., Oakville, ON L6H 6K7 PH: 905-829-1131 Fax: 905-829-2726 eMail: cswanepoel@integra.com Web: www.integra.com

INVEESCO INSTITUTIONAL
Bruce E. Winch, Senior Vice-president; 120 Bloor St. E., Toronto, ON M4W 1B7 PH: 416-324-7448 Fax: 416-590-3742 eMail: bruce.winch@invesco.com Web: institutional.invesco.ca

JARISLOWKSY FRASER LIMITED
Peter Godec, Partner; 20 Queen St. W., Ste. 3100, Toronto, ON M5H 3R3 PH: 416-363-7417 x338 Fax: 416-363-8079 eMail: pgodec@jfl.ca Web: www.jfl.ca

J.P. MORGAN ASSET MANAGEMENT (CANADA) INC.
Mark Doyle, Vice-president, Senior Client Advisor; 200 Bay St., Ste. 1800, Toronto, ON M5J 2J2 PH: 416-981-9109 Fax: 416-981-9196 eMail: mark.x.doyle@jpmchase.com Web: www.jpmorgan.com/iam

KBSH CAPITAL MANAGEMENT
Craig Auwaerter, Vice-president; 2 Queen St. E., 20th Floor, Toronto, ON M5C 3G7 PH: 416-681-7051 Fax: 416-364-2969 eMail: cauwaerter@ci.com Web: www.ci.com

LASALLE INVESTMENT MANAGEMENT
Zelick Altman, Managing Director, Canada; 150 King St. W., Ste. 2103, Toronto, ON M5H 1J9 PH: 416-304-6000 Fax: 416-304-6001 eMail: zelick.altman@lasalle.com Web: www.lasalle.com

LAZARD ASSET MANAGEMENT LLC
Robert Harrison, Senior Vice-president; 130 King St. W., Ste. 1800, Toronto, ON M5X 1E3 PH: 416-945-6627 eMail: robert.harrison@lazard.com Web: www.lazardnet.com

LEGG MASON CANADA INC.
David Gregoire, Managing Director, Head of Distribution; 220 Bay St., 4th Floor, Toronto, ON M5J 2W4 PH: 416-594-2979 eMail: dgregoire@leggmasoncanada.com Web: www.leggmasoncanada.com

LINCLUDEN INVESTMENT MANAGEMENT
Wayne Wilson, Vice-president; 1275 North Service Rd. W., Ste. 607, Oakville, ON L6M 3G4 PH: 905-825-3543 eMail: wayne.wilson@lincluden.net Web: www.lincluden.com

Contact:
Wayne Wilson, Vice President
Tel: 905 825 3543 Email: wayne.wilson@lincluden.net www.lincluden.com

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Comparison with the Market Pooled – International Equities (PSF) Universe Performance before fees for periods ended June 2009

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Bruce E. Winch, Senior Vice-president; 120 Bloor St. E., Toronto, ON M4W 1B7 PH: 416-324-7448 Fax: 416-590-3742 eMail: bruce.winch@invesco.com Web: institutional.invesco.ca

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Peter Godec, Partner; 20 Queen St. W., Ste. 3100, Toronto, ON M5H 3R3 PH: 416-363-7417 x338 Fax: 416-363-8079 eMail: pgodec@jfl.ca Web: www.jfl.ca

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Craig Auwaerter, Vice-president; 2 Queen St. E., 20th Floor, Toronto, ON M5C 3G7 PH: 416-681-7051 Fax: 416-364-2969 eMail: cauwaerter@ci.com Web: www.ci.com

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Zelick Altman, Managing Director, Canada; 150 King St. W., Ste. 2103, Toronto, ON M5H 1J9 PH: 416-304-6000 Fax: 416-304-6001 eMail: zelick.altman@lasalle.com Web: www.lasalle.com

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Robert Harrison, Senior Vice-president; 130 King St. W., Ste. 1800, Toronto, ON M5X 1E3 PH: 416-945-6627 eMail: robert.harrison@lazard.com Web: www.lazardnet.com

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David Gregoire, Managing Director, Head of Distribution; 220 Bay St., 4th Floor, Toronto, ON M5J 2W4 PH: 416-594-2979 eMail: dgregoire@leggmasoncanada.com Web: www.leggmasoncanada.com

LINCLUDEN INVESTMENT MANAGEMENT
Wayne Wilson, Vice-president; 1275 North Service Rd. W., Ste. 607, Oakville, ON L6M 3G4 PH: 905-825-3543 eMail: wayne.wilson@lincluden.net Web: www.lincluden.com

MARTIN CURRIE INC.
Dave Rochman, Vice-president; 1350 Avenue of the Americas, New York, NY 10019 PH: 212-258-1900 Fax: 212-258-1919 eMail: drochman@martincurie.com Web: www.martincurie.com
MARVIN & PALMER ASSOCIATES, INC. Adam Taylor, Client Service & Marketing - Principal; 2300, Wilmington, DE 19801-1165 PH: 302-573-3570 Fax: 302-573-6772 eMail: adamtaylor@mawp.com Web: www.marvinandpalmer.com

MARVIN & PALMER ASSOCIATES, INC. Gary, AB T2P 2T5 Hyndman, Director of Marketing; 900, 603 7th Ave. S.W., Calgary, AB T2P 2T5 PH: 403-267-2175 Fax: 416-596-2933 eMail: dlhyndman@marvin.com Web: www.marvin.com

ICANZ MCLEAN BUDDEN LIMITED Alan Daaner, Executive Vice-president; 145 King St., Ste. 2525, Toronto, ON M5H 1J8 PH: 416-926-5700 Fax: 416-926-0167 eMail: adaaner@mclambudden.com Web: www.mclambudden.com

MFC GLOBAL INVESTMENT MANAGEMENT David Scoon, Vice-president, Institutional Sales; 200 Floor St. E., Toronto, ON M4W 1E5 PH: 416-852-2204 Fax: 416-926-5700 eMail: david_scoon@mfcglobal.com Web: www.mfcglobal.com

MONTRUSCO BOLTON INVESTMENTS INC. Richard Guay, Senior Vice-president, Head of Marketing and Product Development; 1250 Rene-Levesque Blvd. W., Montreal, QC H3B 5J5 PH: 514-282-5465 Fax: 514-282-2516 eMail: guay@montruscobolton.com Web: www.montruscobolton.com

NEW STAR CANADA INC. Bruce Shewfelt, Head of Institutional Sales; 181 University Ave., Ste. 300, Toronto, ON M5H 3M7 PH: 416-869-7827 Fax: 416-363-2089 eMail: bshewfelt@ncgigroup.com Web: www.newstarim.com

NOMURA ASSET MANAGEMENT U.S.A. INC. Mark Meyer, Managing Director; 2 World Financial Center, New York, NY 10281 PH: 212-667-1416 Fax: 212-667-1431 eMail: marketing@nomura-asset.com Web: www.nomura.com/nam-usa/

NT GLOBAL ADVISORS, INC. David Lester, Vice-president; 145 King St. W., Ste. 1910, Toronto, ON M5H 1B4 PH: 416-775-2215 Fax: 416-366-2033 eMail: dl1010@nt.com Web: www.northtrust.com

O’SHAUGHNESSY ASSET MANAGEMENT Sean McCaffrey, Managing Director, Institutional Sales & Client Service; 60 Suburban Ave., Stamford, CT 06901 PH: 203-975-3341 Fax: 203-975-3363 eMail: sean.mccaffrey@osam.com Web: www.osam.com

PICSET ASSET MANAGEMENT LTD. John Maratta, Senior Vice-president; 1000 de la Gauchetiere W., Ste. 3100, Montreal, QC H3B 4W5 PH: 514-350-6236 Fax: 514-288-5473 eMail: mst-inst@picset.com Web: www.picset.com

PYRAMIS GLOBAL ADVISORS* Michael Barnett, Executive Vice-president, Institutional Retirement Services; 483 Bay St., Ste. 300, Toronto, ON M5G 2N7 PH: 416-217-7584 Fax: 416-307-5511 eMail: michael.barnett.toronto@fidelity.com Web: www.fidelity.ca

**A Fidelity Investments Company

RBC GLOBAL ASSET MANAGEMENT* John Skeans, Institutional Communications; 20th Floor, 200 Burrard St., Vancouver, BC V6C 3N5 PH: 604-408-6000 Fax: 604-685-5712 eMail: jskeans@phn.com Web: www.phn.com

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RCM Christian Pachtner, Head of Client Relations & International Business Development; 4 Embarcadero Center, San Francisco, CA 94111 PH: 415-954-8210 Fax: 415-263-5155 eMail: christian.pachtner@rcm.com Web: www.rcm.com


SEAMARK ASSET MANAGEMENT LTD. Darren Kosack, Senior Vice-president, Client Relations & Marketing; 1801 Hollis St., Ste. 310, Halifax, NS B3J 3K4 PH: 902-333-5055 Fax: 902-423-1518 eMail: dkosack@seamark.ca Web: www.seamark.ca

SEL Terry Cameron, Marketing Director; 70 York St., Ste. 1600, Toronto, ON M5J 1P9 PH: 416-847-6371 Fax: 416-777-9093 eMail: tlcameron@seic.com Web: www.seic.com

SPRUCEGROVE INVESTMENT MANAGEMENT LTD. Marcel Laroux, Vice-president, Marketing; 181 University Ave., Ste. 1300, Toronto, ON M5H 3M7 PH: 416-363-5854 Fax: 416-363-6803 eMail: mleroux@sprucergrove.ca

STANDARD LIFE INVESTMENTS INC. Jay Waters, Vice-president, Central Canada; 121 King St. W., Ste. 810, Toronto, ON M5H 3P9 PH: 416-367-2049 eMail: jay.waters@standardlife.ca Web: www.sli.ca

STATE STREET GLOBAL ADVISORS, LTD. Randy Oswald, Vice-president, Business Development & Client Servicing; 161 Bay St., TD Canada Trust Tower, Ste. 4530, Toronto, ON M5X 1A9 PH: 647-259-3789 Fax: 416-956-2464 eMail: randy_owald@ssga.com Web: www.ssga.ca

T. ROWE PRICE Wendy Brodkin, Director, T. Rowe Price (Canada) Inc.; 161 Bay St., Ste. 2700, Toronto, ON M5J 2S1 PH: 416-572-2582 Fax: 416-572-4085 eMail: wendy.brodkin@troweprice.com Web: www.troweprice.com

TD ASSET MANAGEMENT INC. Robin Lacey, Managing Director; 161 Bay St., 34th Floor, Toronto, ON M5J 2Z2 PH: 416-962-6585 Fax: 416-944-6158 eMail: robin.lacey@tdam.com Web: www.tdassetmanagement.com

UBS GLOBAL ASSET MANAGEMENT Stephen Foote, Executive Director; 161 Bay St., Ste. 3900, Toronto, ON M5J 2P1 PH: 416-681-5200 Fax: 416-681-5100 eMail: stephen.foote@ubs.com Web: www.ubs.com

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### 2009 Statistical Listings

#### EAFE & EMERGING MARKETS

<p>| COMPANY                           | CANADIAN EAFE &amp; EM CLIENTS | EAFE SEPARATELY MANAGED | EAFE POOLED | REGIONAL SEPARATELY MANAGED | REGIONAL POOLED | EMERGING MARKETS SEPARATELY MANAGED | EMERGING POOLED | TOTAL EAFE &amp; EM |
|-----------------------------------|-----------------------------|-------------------------|-------------|----------------------------|-----------------|-------------------------------------|----------------|----------------|-----------------|
| ABERDEEN ASSET MANAGEMENT         | 21                          | $541.8M                 | $103.7M     | $296.7M                    | $554.5M         | $85.8M                              | $160.4M        | $417.5M        |
| ACADIAN ASSET MANAGEMENT          | 11                          | $1,315M                 | $235M       | $970M                       | $230M           | $290M                               | $25M           | $1,610M        |
| AGF MANAGEMENT                    | 14                          | $396.9M                 | $52.7M      | $71.5M                      | $3.4M           | $170.4M                             | $29.4M         |                |
| ALTRINSIC GLOBAL ADVISORS         | 2                           | $1,525.2M               |             |                            |                 |                                     |                |                |
| ARROWSTREET CAPITAL               | 2                           | $691M                   | $220M       |                            |                 |                                     | $911M          |                |
| ARTIO GLOBAL MANAGEMENT           | 14                          | $459.9M                 | $275.8M     |                            |                 |                                     | $713.1M        |                |
| AURION CAPITAL MANAGEMENT         | 1                           | $98M                    |             |                            |                 |                                     |                | $98M           |
| AXIOM INTERNATIONAL INVESTORS     | 1                           |                         |             |                            |                 |                                     |                | $74.7M         |
| BAILLIE GIFFORD OVERSEAS          | 8                           | $301M                   | $452M       |                            | $527M           |                                     | $288M          | $894M          |
| BARCLAYS GLOBAL INVESTORS         | 84                          | $2,910M                 | $284M       | $72M                       |                 |                                     | $179M          | $3,154M        |
| BEUTEL, GOODMAN &amp; COMPANY         | 16                          | $18M                    | $155M       |                            |                 |                                     |                | $173M          |
| BLACKROCK                         | 1                           | $75.1M                  | $1,947.4M   |                            |                 |                                     |                | $75.1M         |
| BNY MELLON ASSET MANAGEMENT       | 48                          |                         |             |                            |                 |                                     |                | $3.7M          |
| BRANDES INVESTMENT PARTNERS       | 27                          | $1,758M                 | $613M       | $36M                       | $83M            |                                     |                | $1,142M        |
| BURGUNDY ASSET MANAGEMENT         | 6                           | $11.3M                  | $1,524.8M   | $1,390M                    |                 |                                     |                | $29M           |
| CAPITAL GUARDIAN TRUST COMPANY    | 12                          | $1,359.7M               | $365M       |                            |                 |                                     | $319.8M        | $1,724.7M      |
| CIBC GLOBAL ASSET MANAGEMENT      | 45                          |                         | $75M        |                            |                 |                                     |                | $75M           |
| CORDIANT CAPITAL                  | 5                           |                         |             | $655M                      |                 |                                     |                | $655M          |
| DIMENSIONAL FUND ADVISORS         | 6                           | $60M                    | $70M        |                            | $130M           |                                     |                | $260M          |
| FIERA CAPITAL                     | 29                          | $260.8M                 | $9.2M       |                            |                 |                                     |                | $82.8M         |
| FRANKLIN TEMPLETON INSTITUTIONAL  | 57                          | $2,414M                 | $705M       |                            | $226M           |                                     | $19M           | $2,534M        |
| GE ASSET MANAGEMENT               | 13                          | $962.1M                 | $200.4M     | $834.1M                    | $172M           |                                     | $109.8M        | $96.3M         | $1,367.1M      |
| GOLDMAN SACHS ASSET MANAGEMENT    | 4                           | $960M                   | $205M       | $19M                       |                 |                                     |                | $556M          |
| GREYSTONE MANAGED INVESTMENTS     | 240                         | $1,289.5M               |             |                            |                 |                                     |                | $1,116.9M      |
| GUARDIAN CAPITAL                  |                            |                         |             | $0.3M                      |                 |                                     |                |                |
| GWL INVESTMENT MANAGEMENT         |                            | $34.2M                  | $189.3M     |                            |                 |                                     |                | $223.5M        |
| HEXAVEST                          | 14                          | $67M                    | $340M       |                            |                 |                                     |                | $407M          |
| HOWSON TATTERSALL INVESTMENT COUNSEL | 3                        | $401.7M                 | $11.7M      |                            |                 |                                     |                | $12.8M         |
| INTEGRA CAPITAL MANAGEMENT        | 104                         | $687M                   | $545M       |                            | $58M            |                                     | $64.5M         | $1,354.5M      |
| INVESCO INSTITUTIONAL            | 17                          | $80M                    | $248M       |                            |                 |                                     |                | $82M           |
| J.P. MORGAN ASSET MANAGEMENT      | 17                          | $245M                   | $845M       | $2.825M                    |                 |                                     |                | $1,090M        |</p>
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Three in 10 (29 per cent) employed Canadians may be experiencing psychologically unsafe and unhealthy workplaces according to a groundbreaking new study produced by Simon Fraser University’s Consortium for Organizational Mental Healthcare (COMH – www.comh.ca), a not-for-profit research centre in the Faculty of Health Sciences at Simon Fraser University.

The study was commissioned by the Great-West Life Centre for Mental Health in the Workplace and the survey was conducted by Ipsos Reid (April 20, 2009).

The Ipsos Reid results are based on responses to a survey of 6,804 Canadians using the PSR 12, an instrument developed by COMH for Guarding Minds at Work (www.guardingmindsatwork.ca).

**Key Question**

One key question in the survey reads: ‘Overall, my current workplace is a psychologically safe and healthy environment to work in.’

A psychologically safe and healthy workplace was defined for survey respondents as one that promotes employees’ psychological well-being and does not harm employee mental health in negligent, reckless, or intentional ways.

**Legal Idea**

The legal idea of the psychologically safe workplace is fully described in a report entitled ‘Stress at Work, Mental Injury and the Law in Canada: a discussion paper for the Mental Health Commission of Canada,’ by Martin Shain, with the assistance of Carla Nassar (www.mentalhealthcommission.ca).

In that paper, the term is used to synthesize a number of convergent developments across several areas of the law.

While the term as such is used in some areas of the law, it has yet to be acknowledged as a unifying doctrine across all of them. The use of the term here is based on the author’s interpretation of the law as it stands.

A psychologically safe workplace is defined alternatively as:

- One that allows no significant harm to employee mental health in negligent, reckless, or intentional ways

- One in which every reasonable effort is made to protect the mental health of employees

The first is a legal statement and each term – ‘negligent,’ ‘reckless,’ and ‘intentional’ – has legal weight and significance.

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The study is the first to use the concept of the psychologically safe workplace as the basis for a national survey in Canada. It raises some serious questions about the quality of work/life experienced by a significant proportion of Canadian employees and about the potential impact that preventable psychological harm in the workplace might be having on the Canadian economy.

Current estimates place the burden of such preventable harm to employers alone in the realm of $8 billion to $11 billion per annum. These losses are experienced in the forms of lost productivity, absenteeism, presenteeism, personnel replacement and retraining, increased healthcare insurance premiums and disbursements including STD and LTD, legal liabilities, and disability accommodation related expenses.

Then, once the harm experienced in the workplace migrates into the broader society, these costs become compounded in the form of lost wages, impact on families, healthcare and social service system costs, and a general deterioration in quality of life in communities.

However, in a statement of corporate intent to create a psychologically safe workplace, it would be useful to add the term ‘careless’ before ‘negligent, reckless, or intentional’ because if we can avoid carelessness in our interactions at work, we can, most likely, avoid worse things.

The second is more a commonsensical statement that is nonetheless consistent with the law in the sense that it is a basic extension of the existing duty of diligence in occupational health and safety law.

Psychological safety in these terms is, in fact, a new floor standard for conduct in the workplace.

It is a necessary, but not sufficient, condition for a psychologically healthy workplace where every reasonable effort is made to promote the mental health of employees.

Parenthetically, it is worth noting that all too often the well-meaning efforts of workplace health promotion professionals come to grief because they are not founded on the solid ground of psychological safety.
Alleged Harm

Here is a brief synopsis of how the super-duty to provide a psychologically safe workplace is being drawn upon by employees who seek remedies for alleged harm to their mental health.

Whether their claims are based in contract, tort, human rights, employment standards, or occupational health and safety, employees who are seriously depressed, anxious, or burned-out are making increasingly successful legal claims that their condition or disorder is, in whole or in part, the result of bad things that happen to them or are done to them at work.

The focus of these claims is usually some shortcoming or wrongdoing in the organization, management, and supervision of work (people behaving badly toward one another).

The legal basis for these claims is often that their condition or disorder is a type of mental injury.

Increasingly, the subject of these claims is ongoing bad behaviour during the course of the employment relationship, not just at the point where it is falling apart and employees are being, or believe they are being, terminated.

Remedies are taking the form of financial awards and/or remedial orders against employers requiring them to fix conditions of work that are identified as contributing to the injury or harm.

Financial awards made by courts and tribunals are, on occasion, large, although their size is sometimes contested on appeal by higher courts.

The general trend, however, is toward larger settlements. We do not know very much formally about out-of-court or mediated settlements, but anecdotal evidence points to the same trend.

The sources of liability are multiplying as new legal bases for it are articulated by courts, tribunals, and legislatures.

While financial awards are increasingly important, they are dwarfed in comparison with the actual and potential impact that systemic or public interest remedies can have on employers. In such awards, arbitrators and human rights tribunals are using their new found powers to direct how employers should exercise their management rights to prevent the occurrence of conduct that leads or might foreseeably lead to mental injury. While these remedies usually relate to requirements to write or rewrite policies and procedures, they can extend to training requirements and frequently they call for the reappearance of the employer at the tribunal or hearing room at some future date to report on how the remedial orders have been implemented.

Mental injury in this context is not the same as mental illness, although it can be. Certainly, employees do not always, or even very often, have to prove they have a diagnosable mental illness to win a claim for mental suffering or injury at work.

Excessive Work Demands

These days, even excessive work demands can lead to successful legal action on the part of employees if they can establish that these demands led to mental suffering of a predictable nature. Long gone are the days when only gross acts of violence, harassment, or discrimination could form the basis of such claims.

Indeed, mental injury, according to many modern courts and tribunals, is simply harm to mental health (mental suffering) that significantly affects the ability of employees to function at work and at home. Employers may become liable for such injuries if these are found to result from their negligent, reckless, or intentional acts and omissions.

While there is some uncertainty surrounding where the law will eventually go in this area, there are clear indications and warning signs that employers should aspire to the creation and maintenance of a psychologically safe workplace.

The emerging duty to provide a psychologically safe workplace is really an extension of the existing duty to provide a physically safe system of work that has been evolving in our legal system for more than 150 years.

We are currently at a new frontier in the law as we explore and push the boundaries of what it means to have a psychologically safe workplace. And it is apparent that the current economic imperative to do more with less must be tempered by the duty to do so with reasonable care for the mental health of employees.

Hard economic times are no defence to claims of mental injury, unless the claim is frivolous.

The problem is that stressful economic times create additional pressures on relationships at work.

Additional, but avoidable, problems that increase the risk of legal action during difficult economic times include:

- **Increased Information Failure** – not sharing information that is relevant to others in a timely manner because everyone is too busy
- **Increased Participation Failure** – not involving people in decisions when they have a legitimate interest in the outcome, because everyone is too busy
- **Excessive Demands** – pressures on employees to do more with less beyond the capacity of any normal people in their positions

The consequences of information/participation failure and excessive demands include strong feelings such as resentment, anger, sense of exclusion, depression, and anxiety – any or all of which can contribute to a pervasive and corrosive sense of injustice that, in turn, becomes a breeding ground for conflict and legal action.

The legal consequences are not just, or even mainly, about money, although obviously that can be significant. They are more about the massive disruptions to productivity and negative impact on morale associated with legal actions of any kind brought by employees against their employers or other employees.

Culture Of Fairness

Creating or restoring a culture of fairness is the best insurance against the occurrence of conduct that can constitute mental injury. In such a culture, people feel involved, valued, and respected. The best way to ensure a culture of fairness is to concentrate on preserving its foundations.

The most essential elements of these foundations are the active maintenance of participation and information flow. These facilitate conditions of awareness, understanding, and carefulness – the building blocks of emotional intelligence:

- **Awareness** – being aware of how you affect others in your circle of influence and how they affect you
- **Understanding** – being respectful of one another’s legitimate interests and needs
- **Carefulness** – taking pains to avoid reasonably foreseeable harm to others in your circle of influence

Recruiting, selecting, training, and promoting employees and managers for the key trait of emotional intelligence is the best single measure employers can take to address the legal requirement to provide a psychologically safe workplace in this or any other economic environment.

Essentially, and perhaps surprisingly, the law is calling for emotional intelligence to be the bedrock of conduct at work that is conducive to fairness and reasonableness and the prevention of mental injury.

Dr. Martin Shain is an adjunct professor and senior consultant with the Consortium for Organizational Mental Healthcare (COMH). He holds an appointment with the Dalhousie University School of Public Health, Faculty of Medicine, University of Toronto; is founder of the Neighbour at Work Centre; and is a principal architect of Health Canada’s ‘Workplace Health System.’ He also is providing ongoing consultation for the newly-formed Mental Health Commission of Canada.

For assistance with assessing and addressing avoidable risks to the mental health of employees, visit www.guardingmindsatatwork.ca.
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Employee communication around Defined Contribution plans has changed so drastically over the past 20 years that it’s tough to think of any aspect – medium or message – that hasn’t changed over this timeframe.

We’ve gone from an era of simplicity during the emergence of DC plans in the 1980s through a tremendous period of growth and complexity in the 1990s where ‘more’ was considered better. Now in the hectic world of the 2000s, it’s all about finding the right balance between simplicity and complexity – about making it real, relevant, and easier to take action.

From Simple Beginnings

In the 1980s, when DC plans were just being introduced, things were pretty simple. Most companies offered DC plans as a supplement to their existing pension programs. Remember the three-legged stool? This well-known visual represented the simplicity of the thinking during this decade, illustrating DC plans as an additional source of retirement income to supplement other government- and company-provided benefits.

As DC plans were getting underway, investment choice was limited. It was unusual for companies to offer more than a handful of investment options – usually just one choice from each main investment category. This made decision-making relatively simple … equity, fixed income, balanced, or cash?

And, the pace of this time was simpler, too. The tech boom hadn’t happened yet and the Internet was in its infancy. So, tracking and monitoring accounts was typically a semi-annual or annual occurrence, following receipt of paper statements delivered by mail weeks after the actual close of the statement period.

During this time, DC communication was simple too, focused on providing plan information and helping employees understand how to make basic investment choices. In this day of pension plans and government benefits, additional savings opportunities were a nicety, not a necessity.

Through Growth And Expansion

Enter the 1990s, a time where everything focused on expansion. ‘More’ was the word of the day – more DC plans, more investment choice, more information, more access, more often.

Companies and plan members started seeing the benefits of DC plans and the flexibility they afforded. For many employers, DC plans became the retirement plan of choice for the future. For many plan members, their DC plan became a critical component for reaching their retirement goals. DC plans were taking off.

And they weren’t the only thing taking off during this time. The World Wide Web had made its debut and was gaining rapid acceptance across Canada. Administrators led the charge to the Web, offering new self-service options and online account management. Plan members could now access their account information 24 hours a day, seven days a week. And daily fund valuations opened the door for investors to actually make changes to their investment mix on a daily basis.

While all of this access and control was invigorating for plan members, the transparency and ability to see daily changes in the fund prices caused something else – anxiety. Now, instead of seeing plan performance every quarter or every six months, they were seeing the ups and downs of the markets on a daily basis. That’s when the questions started …

‘Should I sell? Should I buy?’

To make this time even more challenging, there were changes on the investment front. Traditional retail fund managers began offering their funds through alliances with administrators. And with this change, the line-up of fund choice in DC plans exploded – large cap, small cap, sector-based funds, different managers with different styles, top down, bottom up, growth, value.

With all of this choice and the new levels of access to their accounts, it’s no wonder that DC communication during the ’90s focused on education. Education was provided about the markets and daily volatility, fund choices and sorting through the new maze of fund options, risk tolerance and making suitable investment choices.

Into Today’s World Of Targeted Communication

These days, things are moving faster than ever. We are inundated with financial information every day about
the global economy, market performance around the world, and financial products.

With so much information reaching plan members every day, it’s easy for them to end up in a state of decision-paralysis. Whether they become numb to the bombardment of messages and ‘turn off’ to avoid making decisions or simply just get overwhelmed by uncertainty and are unable to decide, the high level of defaults seen in the 2000s make it clear that employees are not doing the things that they need to.

This has led to the emergence of behavioural finance and the development of many new plan features and products designed to make it easy for employees to do what they need to including automatic enrollment, one-step changes, new managed funds as defaults, and other automated features to minimize the barriers to employee action.

DC communication during this decade has also turned to behaviour theory to better understand the motivations and potential barriers to employee action. New communications focus on making DC information real and relevant on an individual level and online technologies make it easier than ever to deliver relevant information directly to participants.

As we near the end of this decade, the relevance and personalization of communication is continuing to evolve. Administra-

to Web sites hold a wealth of information for savvy communicators on general investor patterns, activity levels, and defaulting behaviour. This knowledge provides incredible opportunities to tailor information for various user profiles.

Of course, individual confidentiality must be protected. This is one of the many new legal complexities that are also a reality of this day and age. As a result, we are seeing an evolution in targeted communications and a movement towards user-set profiles where employees determine which profile is most relevant.

Once a user aligns with a particular user profile, they no longer have to wade through mountains of information to get to what’s important to them. That’s done behind the scenes, thanks to the tremendous advances in technology.

Catching Attention With Creativity And Media

Given the information overload of this era, one of the biggest communication challenges is often catching the plan members’ attention in the first place. These days, people are busier than ever. Add to that the new sense of immediacy and urgency that has evolved, and there’s no question that today’s world is more hectic and the DC audience is more time-crunchy than ever.

Today’s communications need to cut through this clutter. They need to stand out in a way that will make employees pay attention by being simple, clear, creative, and catchy. More and more companies are taking cues from retail marketers to find opportunities to promote their DC plans to participants. Whatever creative approach is used, it needs to reinforce the focus on employee behaviour, and creative ‘framing’ may be one way to drive behaviour.

Imagine two brochures, one highlighting the positive benefits of participating in the plan and the other focusing on the negative consequences of not participating. In many cases a negative frame will actually drive more employees to take action. This concept can be of significant value for today’s DC communication as a way to motivate key employee behaviours.

Another way to catch attention is through the creative use of media. With all the high-tech options available now, it just makes sense to leverage video and audio to catch your audiences’ attention. Multimedia messages are much more engaging and memorable and that’s exactly what’s needed to drive behaviour.

Interestingly, these new technologies also introduce a level of complexity for plan sponsors in ensuring that everyone is enabled to receive messages. Combine this with the legal complexities around disclosure and confidentiality, and it looks like the 2000s are shaping up to be an interesting balance between the need for simplicity for plan members and the behind-the-scenes complexity for plan sponsors.

The Evolution Continues

DC communication has come such a long way in such a short period of time, from the basic information of the 1980s to the personalized and targeted world of today. From semi-annual updates to online and real-time access 24/7. From limited investment choice in the ’80s to overwhelming choice in the ’90s and now to managed funds targeted to your personal timeframes. Clearly the DC communication world is changing at record speeds.

So, with the next decade just around the corner, what’s next? Will it be an evolution deeper into the various social media options, blogs, and wikis or personalized messages and reminders delivered right to your handheld?

It’s exciting to imagine all of the possibilities. The question now is … R U ready?

Kim McMullen is a senior communications consultant in Hewitt Associates’ Toronto office (kim.mcmullen@hewitt.com).
The dismissal by the Supreme Court of Canada (SCC) of the appeal ‘Elaine Nolan et al. v. Kerry (Canada) Inc. et al’ will have a significant impact on the actions of employers in managing employee pension plans.

The court decision provides guidance on several major issues. It decided that contribution holidays may be taken in a Defined Benefit plan where plan documents provide that funding levels are determined by actuarial practice. It also decided that the decision of the Financial Services Tribunal (FST) allowing contribution holidays in the Defined Contribution component of the plan, funded by the surplus in the DB component, was not unreasonable. Its decision was based on the fact that there was only one trust for all plan members and thus there was no revocation of trust funds in using the surplus funds from the DB component to fund DC contributions.

As well, a clause requiring that trust funds be used for the “exclusive benefit” of the plan members does not require the sponsor to pay expenses. Based on the “text and context” of the plan documents, the SCC held that the payment of expenses was for “the exclusive benefit of the employees” when this ensures the continued existence of the plan.

The court also agreed that there was nothing in the Ontario Pension Benefits Act or common law which obligated an employer to pay the expenses of administering a pension plan. In considering the language of the trust agreement, the court acknowledged the company was required to pay the expenses incurred specifically in the operation of the trust. Yet, the expenses related to the execution of that trust are not inclusive of the broader administrative expenses such as actuarial, accounting, and investment services.

The SCC held that the FST did not err in refusing to award costs of the litigation to be paid out of the fund, as the fund was not a party to the proceedings. Further, it ruled that costs of litigation in pension disputes should be paid out of the trust funds only where the litigation is aimed at the due administration of the pension trust fund.

Going forward, for employers or administrators wishing to charge administrative expenses to the pension fund, all governing plan documentation, both current and historical, needs to be examined to determine whether any potential barriers exist.

The decision also lays out a framework that assists in the understanding of when employers will be permitted to use DB actuarial surplus to fund contributions under a DC portion of the same plan.

As well, the decision reflects a growing implicit recognition on the part of Canadian courts that employers need increased flexibility in dealing with private pension plans if DB plans are to survive and if balance is to be achieved between employee and employer entitlements.

Sources: Hicks Morley, Fasken Martineau; Borden Ladner Gervais LLP; Cavalluzzo Hayes Shilton McIvor & Corinish LLP
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Natalie Dempster, head of investment research for North America at the World Gold Council, will be one of the featured speakers at the ‘World Alternative Investment Summit Canada 2009.’ She believes gold’s investment characteristics, especially its role as a portfolio diversifier, make it an invaluable investment. The summit takes place September 14 to 16 in Niagara Falls, ON. Visit: www.waisc.com

‘Changing Currents’ of the retirement income system will be the theme of the ‘2009 ACPM National Conference.’ Plenary sessions will examine topics such as the various pension reports published in the last few months and what they all mean to the pension industry while its workshops will address alternative investment strategies, plan governance, plan member education, pension plans in a corporate finance framework, the legal issues involved in determining what plan members should or should not know, and whether the proposed JEPPS ‘ABC Superfund’ is viable. It takes place September 15 to 18 in Montreal, QC. Visit: http://www.acpm.com/default.asp?action=article&ID=85

The premiere Drug Benefit Conference – ‘The Evolving Drug Benefit Landscape: 2010 and Beyond’ – takes place September 15 in Brampton, ON. The joint initiative of Equilibrium Health Consulting Inc. and Drug Benefit Consulting, it will look at technological advancements, legislative proposals, and benefit management strategies which are changing the supply and demand of healthcare in Canada. Speakers include Dennis Darby, CEO of the Ontario Pharmacists’ Association, who will present the proposed legislative changes which are enhancing the scope of pharmacy practice, Linda Lin, Director, clinical services and pharmacy relations, ClaimSecure Inc., who will examine the challenges and opportunities for private payers and adjudicators in today’s turbulent economic environment. Visit: http://www.regonline.ca/builder/site/Default.asp?eventid=745205

The International Foundation of Employee Benefit Plans is offering an ‘Advanced Investments Management’ program in September. It takes place September 21 in Philadelphia, Pennsylvania. This program presents high level sessions covering advanced asset allocation, advanced bond management, equity real estate investments, alternative investments and hedge funds, and international investing. Visit: www.ifebp.org/Education/Schedule/

**ADDENDA**

The following were not available for the Directory of Consultants published in the August issue of Benefits and Pensions Monitor.

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The recent focus on executive pay is an idea that is very much of the moment. We have villains – the executives of failed or failing companies who have had outrageous compensation packages. We have a catchy slogan – everybody is looking to have a ‘say on pay.’ And we have new players – including regulators and Ken Feinberg, the new pay czar appointed by the Obama White House to the U.S. Treasury.

Unintended Consequences

However, like many issues, this one has quickly gotten muddied. Much of the debate has asked ‘How much money is too much to pay an executive?’ The real questions are:

- Does such compensation motivate executives (as any compensation package should)?
- Does it sometimes, instead, provide unintended consequences of rewarding negative behaviour?
- Can we design a better way of compensating individuals?

Finding a system of rewarding behaviours that we want, and discouraging those we don’t, isn’t easy, as past regulatory attempts have shown.

Options and equity based bonus plans do align executive interests with those of shareholders. They also often have short vesting periods. This can encourage risky behaviour which could dramatically increase a company’s share price, but which could also lead to losses for executives, shareholders, bondholders, and, as we have just seen, sometimes taxpayers. The short vesting periods also tend to reward actions before the full effects, including any negative effects, of such behaviour are realized.

Option-based bonus systems also don’t fully account for changing economic and stock conditions. For example, in bad economic times, a company’s stock price will fall and traditional stock options will be worth little or nothing. There is, therefore, no incentive for an executive to either work hard or even to stay with the company.

Companies that try to remedy this situation by either repricing existing options or granting new options are accused by their investors of rewarding failure.

On the other hand, bonus systems that result in a large payout to an executive at one point in time, can result in either disincentives for that same individual to stay with the firm, or negative actions since the executive already has taken a large payout and has ‘nothing to lose’ in the future.

There have been more complex plans that are equity based, but only vest after a longer time and either measure stock performance against a peer group or a market index in order to closely track real value added.

Continuing Incentive

An idea refining many of these concepts comes in a working paper from Alex Edmans, at the Wharton School of the University of Pennsylvania, titled ‘Dynamic Incentive Accounts.’ This idea marries compensation, benefits, and pension ideas in a system that both provides continuing incentive to employees over changing market conditions, but also can’t easily be manipulated by a participant.

This incentive account would hold an executive’s total compensation in an escrow account. The amount would be invested in the company stock and in cash in a fixed proportion (say 70 per cent stock/30 per cent cash). The account would be rebalanced at least quarterly to keep the same proportion – if the share price declines, cash would be withdrawn from the cash comp-
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