MORNEAU SHEPELL

NEWS & VIEWS

IN THIS ISSUE

NEW PSYCHOLOGICAL HEALTH AND SAFETY WORKPLACE STANDARD TO BE LAUNCHED

Early in the new year, the National Standard of Canada for Psychological Health and Safety (PHS) in the workplace will be unveiled. Developed by the Mental Health Commission of Canada (MHCC) and in collaboration with CSA Standards (Canadian Standards Association Group) and the Bureau de normalisation du Québec (BNQ), the standard is intended to promote psychological health and safety in the workplace. Included in the new standard will be guidelines and procedures designed to better support employees by monitoring and evaluating workplace danger and risk. For the first time, the potential interrelationship between a number of workplace factors, such as a person's job, the role of leadership, communication, resources, and how all of these have an impact on one's psychological health as well as employees' own health and behaviour, will be recognized.

The issue of mental health has garnered greater awareness, appreciation and understanding in recent years. Slowly but surely, Canadian employers are realizing that mental health and its impact on the workplace is an issue they simply cannot afford to ignore. Recent studies illustrate just how serious and prevalent the issue of mental health has become and the associated costs to the Canadian economy and Canadian employers.

So just how big an issue is mental health in the workplace? In a national survey of over 1,000 employees conducted by the Conference Board of Canada (Building Mentally Healthy Workplaces 2011), **44%** of employees reported personally experiencing a mental health issue. A staggering **70%** reported experiencing *significant disruption* in their career as a result of their symptoms. Equally alarming was that only **26%** of employees felt their supervisor effectively managed mental health issues.

The human and capital costs are massive. At least **1 in 5**, or **22%**, of Canadians will experience a mental health problem in their lifetime (Health Canada 2002). Mental health is the leading cause of both short- and long-term disability. In terms of its impact on businesses' bottom line, this means about **$51 billion** annually—**$20 billion** of which comes from lost productivity in the workplace. A 2011 study commissioned by the Mental Health Commission of Canada predicts that, if not addressed, the impact of mental health problems (due to absenteeism, presenteeism, and turnover) will cost Canadian businesses **$198 billion** in lost productivity over the next 30 years (MHCC 2012).

With the standard soon to be launched, the big question remains: What can organizations do to adopt and implement a psychologically healthy and safe workplace to benefit its employees and bottom line? The new PHS standard is voluntary. There is no legal framework or regulation in place to force employers to adopt it.

But while there is no legal obligation in place to force employers to adopt the standard, what is becoming clear is the fact that employers are finally waking up to the legal ramifications of *not* dealing with the issue of mental health. Increasingly, employees are demanding and legislative bodies such as WorkSafe BC, who have implemented recent changes to their Act, agree that Canadian employers have a duty and responsibility to provide a psychologically safe workplace, protected in the same way and to the same effect as other occupational health and safety standards. Employers, therefore, need to build a strategy for dealing specifically with mental health in their existing risk management strategies.

Morneau Shepell will become an early adopter of the PHS standard, following the example of companies like Bell Canada who have been at the forefront of raising awareness about mental health and de-stigmatizing mental illness.

For further information on Morneau Shepell's tools and expertise, please contact Claudine Ducharme, a key member of the Technical Committee for the development of the standard, Rochelle Morandini, or your consultant in Morneau Shepell's Health and Benefits Consulting practice.

FACILITATING POOLED ASSET MANAGEMENT FOR ONTARIO'S PUBLIC-SECTOR INSTITUTIONS: REPORT FROM BILL MORNEAU

On May 30, 2012, Dwight Duncan, Ontario's Minister of Finance, appointed Bill Morneau as the independent Pension Investment Advisor, in order to determine the advantages of pooled asset management for Ontario's public sector pension funds and, if appropriate, to recommend a path to implementation. On November 16, 2012, the government released the Pension Investment Advisor's *report*.

This report recommends the creation of a new pooled asset manager, to be known as the Ontario Investment Management Corporation ("Corporation") to oversee investments on behalf of Ontario's public-sector pension funds, as well as several non-pension investment funds. Participating institutions would retain ownership of their assets, but invest them with the Corporation through a family of unitized pooled funds. The report notes that, with political will and effort, a pooling framework would achieve potential annual savings of between $75 and $100 million.

The report is clear that pension plan design, policies and administration were not in the scope of the mandate. (The report noted that several stakeholders would have liked to see consolidated administration included in the mandate.) The relationship between the plan member and the plan would remain unchanged by the report's recommendations. According to the report, the Corporation's pooled asset managers must:

- permit participating institutions to retain fiduciary responsibility and control over asset allocation decisions, given variations in the liability profiles across pension plans and investment funds. This would require a family of unitized pooled funds, similar to mutual funds;
- operate at arm's length from government;
- feature world-class governance, professional investment and risk management, competitive compensation and effective oversight; and
- have sufficient assets under management—at least $50 billion—to support investments in a broad range of asset classes at the most competitive costs. All else being equal, no participating institution should face higher investment costs than it does at present.

Other recommendations of the report pertain to:

- voluntary vs. mandatory participation, with the report citing thresholds with respect to assets under management as well as naming specific organizations;
- defined contribution plans and their ability to pool assets with the Corporation;
- access for endowment funds and supplementary retirement plan funds;
- transition to the new framework; and
- compensation of directors, structure and governance.

Economies of scale, internal management and passive management would contribute to the savings achievable under an asset pooling framework. Quebec, BC and Alberta already have pooled asset management and access to alternative asset classes available to certain public sector plans.

The report proposes that the Corporation be established on January 1, 2014. By July of that year the number of external asset managers would be reduced and by January 1, 2018, the Corporation would be fully operational. The report suggests that public-sector pension plans that agree to have assets managed by OMERS, Teachers' or HOOPP by the end of 2013 would not be required to participate.

The *report* contains 20 formal recommendations from Bill Morneau. The Ontario government is requesting feedback on the report from individual plans, affected stakeholders and other interested parties.

ONTARIO ISSUES LETTER OF CREDIT REGULATIONS

On November 15, 2012, the Ontario Government filed O. Reg. 364/12 (the "Regulation"), which sets out the terms for the use of letters of credit ("LOC") in Ontario. The Regulation follows previous announcements from the 2012 Ontario Budget and the summary of proposed LOC regulations released on July 30, 2012, by the Ministry of Finance. It will come into force on January 1, 2013.

The Regulation is in line with previous announcements by Ontario Government and finally provides the full details concerning the implementation of LOCs, both in terms of administration and funding implications. The rules and timelines for adopting LOCs are detailed and specific, and must be strictly adhered to.

Essentially, the LOC can be used to replace part of the employer's contribution to fund solvency deficiencies. The amount of the LOC is limited to 15% of the plan's solvency liabilities, which are defined to exclude escalated adjustments (i.e. inflation increases), consent benefits, prospective benefit increases, and so on. In subsequent valuations, the LOC is not considered a solvency or going-concern asset of the plan, but is considered a solvency asset adjustment that can be used to decrease the solvency deficiency.

The LOC is also not considered when calculating the transfer ratio for purposes of determining restrictions on the amount that can be transferred on a locked-in basis upon termination of employment. This will potentially require higher lump sum contributions from employers or reduced transfer payouts for former members, with a greater deficiency to be made up over five years.

Using a LOC will reduce an employer's pension contributions in the short run until the 15% limit is reached. If the plan's investments do well or discount rates increase (causing solvency liabilities to decrease), the employer will be able to lower the face value of the LOC and will be less likely to develop a funding surplus in the plan.

LOCs have certain disadvantages, as well. The annual renewal fee may be significant, particularly for these employers with the greatest need for relief from funding requirements. The use of a LOC results in fewer actual assets being held in the plan and, therefore, lower potential investment returns. If investment returns or market conditions do not improve, this will result in higher future funding requirements for the employer and increased LOC fees. The use of a LOC can also have an impact on the employer's available line of credit and other financing arrangements.

The trustee of a pension fund holding a LOC plays a key role in the administration of that LOC. The pension plan administrator is required to adopt a trust agreement with the pension fund trustee that meets specific requirements set out in the Regulation. It is anticipated that most pension fund trustees will be able to provide a standardized trust agreement, although additional fees will likely be involved.

There are also strict rules for filing a LOC and trust agreement with the Ontario Superintendent of Financial Services. Within five days of receiving a copy of a LOC, the pension plan administrator is required to give the Superintendent a certified copy of the LOC and a certificate indicating whether the LOC satisfies the requirements of the *Pension Benefits Act*, the *Income Tax Act*, and their regulations. This requirement applies to any amendment, replacement or renewal of an existing LOC, as well. The pension plan administrator is also required to give a copy of the trust agreement or any amendment to the trust agreement to the employer and the Superintendent within 10 days after it is entered into or is amended. These filing deadlines are much shorter than the usual 60-day filing deadline for plan documents. There is no requirement as of yet for notice to plan members and beneficiaries.

Notwithstanding the disadvantages, employers who sponsor Ontario defined benefit pension plans are generally looking forward to the use of LOCs to reduce their short-term funding costs and offer relief from the greater funding requirements under current market conditions.

ONTARIO PROPOSES CHANGES TO FINANCIAL HARDSHIP UNLOCKING PROGRAM

The Ontario Ministry of Finance has released a summary of a proposed regulation to restructure the financial hardship unlocking program for locked-in funds. The summary follows up on an announcement in the 2012 Ontario Budget.

The proposed regulation will allow Ontario former members to apply directly to financial institutions to unlock funds from locked-in retirement accounts (LIRAs) and life income funds (LIFs), as opposed to making an application to the Superintendent of Financial Services as is currently the case. The Superintendent will prescribe forms for this purpose, and the application procedures will be set out in the regulation.

The current seven grounds of financial hardship will be consolidated into four new grounds, namely a demand for arrears of rent or mortgage payments, medical expenses of the applicant or the applicant's spouse or dependant, first and last months' rent, and low income. Spousal consent will continue to be required. The “asset test” which determines the maximum unlocking amount will be eliminated. It is not clear whether the financial institution will be permitted to charge a fee for unlocking.

The current minimum withdrawal of $500 plus withholding tax will continue to apply. The amount an individual is able to withdraw will continue to be based on the type of financial hardship, subject to a new overall maximum withdrawal limit of 50% of the Year’s Maximum Pensionable Earnings.

The changes to the financial hardship unlocking program will not affect pension plan administrators, as financial hardship unlocking is only available to owners of LIFs and LIRAs. Alberta, Nova Scotia and the federal jurisdiction also permit financial hardship unlocking from locked-in accounts.

Public comments on the proposed regulation are due by January 7, 2013.

QUEBEC BUDGET 2013-2014

On November 20, 2012, Quebec Finance Minister Nicolas Marceau tabled Quebec’s 2013-2014 budget. The following are excerpts from budget documents outlining Minister Marceau’s announcements regarding retirement and health.

HEALTH CONTRIBUTION

The flat health contribution was eliminated and will be replaced by a progressive health contribution starting in 2013. It will be calculated according to individual instead of family income with each member of a couple now paying the health contribution based on personal income.

A QUEBEC RESIDENT WITH AN ANNUAL INCOME AS AT DECEMBER 31 OF	WILL CONTRIBUTE THE LOWER OF...	
Less than $18,000	Exempt	Exempt
$18,000 to $40,000	5% of income over $18,000	$100
$40,000 to $130,000	$100 + 5% of income over $40,000	$200
Over $130,000	$200 + 4% of income over $130,000	$1,000

D’AMOURS COMMITTEE REPORT

The expert panel tasked with studying Quebec’s retirement system, chaired by Alban D’Amours, is expected to table its report in early 2013.

VOLUNTARY RETIREMENT SAVINGS PLAN

By spring 2013, the government will table a bill to implement the new voluntary retirement savings plan announced in February 2012 by the previous Finance Minister, Raymond Bachand. The bill will reflect the D’Amours Committee recommendations.

ASSESSMENT OF POSSIBLE IMPROVEMENTS TO QUEBEC PENSION PLAN

Minister Marceau indicated that the Quebec government will continue working with the provinces and the federal government to assess the possibility of making gradual and fully funded improvements to the Quebec Pension Plan and the Canada Pension Plan.

The improvement under consideration could, for example, involve an increase in the income replacement rate, currently 25%, an increase in the cap on pensionable earnings, or both. However, in the current context, the scenarios under consideration will have to take into account their possible impact on the economy.

SUPPORT FOR THE BIOPHARMACEUTICAL SECTOR

In 1994, the government introduced the 15-year rule to promote research and development in the biopharmaceutical sector in Quebec. This rule is now a thing of the past.

The 15-year rule authorized reimbursement of innovative prescription drugs for 15 years following their inclusion on the list of approved prescription drugs, even if their patents had expired and a less expensive generic alternative existed. This rule has now been eliminated.

The government has put other measures in the budget to promote research and development in the biopharmaceutical sector.

SPOUSAL ENTITLEMENT TO DEATH BENEFITS

A recent split decision of the Ontario Court of Appeal in *Carrigan v. Carrigan Estate* delivered an unexpected and unsettling interpretation of spousal entitlement to a pre-retirement death benefit under the *Pension Benefits Act* (the "Act"). According to the facts of the case, Mr. Carrigan was separated, but never divorced, from his legally married spouse. After separation, he designated this spouse and children as beneficiaries under his pension plan. When Mr. Carrigan died while still actively employed, he was living with his common-law spouse of many years. In determining entitlement to the death benefit, the Court rejected both spouses' claims to entitlement on the basis of spousal priority. Instead, it declared that the member's legally married spouse and children were entitled to the pre-retirement death benefit given that they were the designated beneficiaries.

Under the statutory scheme of the pre-retirement death benefit in Ontario, the spouse at the date of death has priority entitlement (s. 48(1) of the Act), unless the member and spouse are living "separate and apart" at the date of the member's death (s. 48(3) of the Act). The Act includes legally married and common-law spouses in the definition of "spouse".

Unless there was a spousal waiver of the benefit, administrators have long interpreted the scheme to give spousal priority to the cohabiting spouse at the date of death without requiring any further consideration. In the Court's interpretation, however, the spousal priority provision applies only if there is **no** spouse living "separate and apart" at the date of death. If there **is** a spouse living "separate and apart," spousal priority is eliminated entirely. Payment of the benefit will then be made either to a designated beneficiary or, if none, to the estate of the deceased member. Applying that analysis to the *Carrigan* circumstances, the Court found that there was a spouse living "separate and apart," i.e. the spouse from whom he separated but never divorced. Therefore, spousal priority disappeared in respect of the common-law spouse and the designated beneficiaries were entitled to the benefit.

On November 28, 2012, the common-law spouse succeeded in obtaining a stay of the judgment (i.e. a temporary delay).

This ruling calls into question decades of administrative practice with respect to determining spousal entitlement to pre-retirement death benefits. It may also have some impact on entitlement to post-retirement death benefits.

UPDATE: PENSION AND BENEFIT ACCOUNTING FOR PRIVATE ENTERPRISES

In January 2012, the Canadian Accounting Standards Board (AcSB) issued an Exposure Draft entitled "Employee Future Benefits" proposing changes to the accounting for defined benefit plans for private enterprises and not-for-profit organizations (NFPO). For the list of proposed changes, please refer to the *News & Views* of February 23, 2012. Comments by the public were sent to the AcSB in May. Following its November 7-8 meeting, the AcSB determined that no major changes to the Exposure Draft proposals were required as a result of the feedback received from stakeholders, but agreed on several clarifications. For private enterprises only, the AcSB approved the revised standard, subject to final drafting and a written ballot. The revised standard is expected to be issued in the second quarter of 2013 and will be effective for annual periods beginning on or after January 1, 2014.

However, the AcSB is still considering the comments received on the Exposure Draft that relate specifically to NFPOs. The AcSB will continue discussing the potential application of the standard for NFPOs at its next meeting in December.

AS AT NOVEMBER 30, 2012

MARKET INDICES

The following table shows the Morneau Shepell monthly summary of returns from various market indices. It also includes returns from benchmark portfolios used by pension funds.

	RETURNS			
	Monthly	Quarter to date	Year to date	1 year
TSX GROUP/PC BOND INDICES				
DEX Universe Bond	0.6%	0.4%	3.7%	5.5%
DEX 91 Day Treasury Bill	0.1%	0.2%	0.9%	1.0%
DEX Short Term Bond	0.3%	0.4%	2.0%	2.5%
DEX Mid Term Bond	0.6%	0.5%	4.8%	6.6%
DEX Long Term Bond	1.2%	0.4%	5.5%	9.4%
DEX High Yield Bond	0.8%	2.7%	13.9%	14.0%
DEX Real Return Bond	0.8%	0.8%	3.6%	7.3%
CANADIAN EQUITY INDICES				
S&P/TSX Composite (Total Return)	-1.3%	-0.2%	5.1%	3.4%
S&P/TSX Composite Capped	-1.3%	-0.2%	5.1%	3.4%
S&P/TSX MegaCap	-1.4%	-0.3%	3.8%	1.8%
S&P/TSX 60 (Total Return)	-1.1%	0.4%	6.0%	4.1%
S&P/TSX Completion	-1.9%	-1.9%	2.8%	1.2%
S&P/TSX Small Cap	-3.9%	-4.3%	-4.5%	-6.5%
BMO Small Cap Unweighted	-4.1%	-4.8%	-3.7%	-5.1%
BMO Small Cap Weighted	-3.5%	-3.8%	-0.3%	-1.8%
U.S. EQUITY INDICES				
S&P 500 (US$)	0.6%	-1.3%	15.0%	16.1%
S&P 500 (C$)	0.0%	-0.2%	12.3%	13.1%
FOREIGN EQUITY INDICES[1]				
MSCI ACWI (C$)	0.7%	1.6%	10.8%	10.7%
MSCI World (C$)	0.7%	1.6%	10.9%	11.0%
MSCI EAFE (C$)	1.8%	4.3%	10.9%	10.0%
MSCI Europe (C$)	2.0%	5.1%	13.0%	11.4%
MSCI Pacific (C$)	1.5%	2.7%	7.2%	7.5%
MSCI Emerging Markets (C$)	0.7%	1.6%	10.3%	9.2%
OTHER				
Consumer Price Index (Canada, October 2012)	0.2%	0.2%	1.7%	1.2%
Exchange Rate US$/C$	-0.5%	1.1%	-2.3%	-2.6%
MORNEAU SHEPELL BENCHMARK PORTFOLIOS[2]				
60% Equity/40% Bonds	0.1%	0.6%	6.4%	6.5%
55% Equity/45% Bonds	0.1%	0.6%	6.1%	6.4%
50% Equity/50% Bonds	0.1%	0.5%	5.9%	6.4%
45% Equity/55% Bonds	0.2%	0.5%	5.7%	6.3%
40% Equity/60% Bonds	0.2%	0.5%	5.5%	6.2%

[1] Returns net of taxes on dividends, except for MSCI Emerging Markets.

[2] The returns are compounded monthly.

ASSET & RISK MANAGEMENT

In **Asset Management**, we provide objective advice on all aspects of asset management for pension funds, including investment policy statements, portfolio manager searches, investment performance measurement and investment strategy.

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In **Risk Management**, we provide a structured, comprehensive approach to pension risk management, including implementation of liability-driven investment strategies, advice on allocation of the risk budget within an asset-liability framework and execution of continuous and dynamic processes for risk reduction.

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AS AT NOVEMBER 30, 2012

TRACKING THE FUNDED STATUS OF PENSION PLANS

This graph shows the changes in the financial position of a typical defined benefit plan since December 31, 2007. For this illustration, assets and liabilities of the plan were each arbitrarily set at $100 million as at December 31, 2007. The graph shows the impact of past returns on plan assets and the effect of interest rate changes on solvency liabilities.

THE EVOLUTION OF THE FINANCIAL SITUATION OF PENSION PLANS SINCE DECEMBER 31, 2007

In November 2012, assets remained stable at $115.2 million, a level comparable to the previous month and its highest level experienced during the period shown. Negative returns in the Canadian equity market offset positive returns for most global equity markets and for Canadian bonds. Solvency liabilities increased to $158.5 million due to a small decrease in the annuity purchase rate. The combined result was that the deficit has increased this month to $43.3 million. Over the last 7 months this typical pension plan has shown solvency deficits at levels well beyond those seen previously in the time period shown.

Since the beginning of the year, the funded status of this typical pension plan has deteriorated. The deficit has increased by $5.3 million (a 14.1% increase).

Please contact your Morneau Shepell consultant for a customized analysis of your pension plan.

CANADA BOND YIELDS

	YIELD (CLOSING)		CHANGE 2012
	DEC. 2011	NOV. 2012	
Overnight rate target	1.00%	1.00%	0 bp
3 months	0.82%	0.96%	14 bps
2 years	0.95%	1.07%	12 bps
5 years	1.27%	1.28%	1 bp
7 years	1.51%	1.44%	-7 bps
10 years	1.94%	1.70%	-24 bps
30 years	2.49%	2.29%	-20 bps

Source: Bank of Canada

Comments:

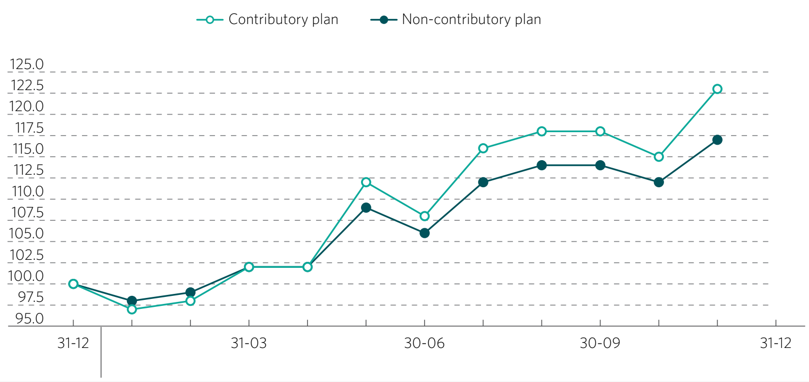
1. No consideration has been made for contributions paid to the plan or for benefits paid out of the plan.
2. Solvency liabilities are projected using the rates prescribed by the Canadian Institute of Actuaries for the purpose of determining pension commuted values. Early application of the 2009 standards is not reflected.
3. The underlying typical defined benefit plan is a final average plan with no pension indexing.
4. Solvency liability calculations take into account revised CIA guidance on the solvency valuation assumptions (annuity proxy).
5. Assets are shown at full market value. Returns on assets are based on those of the Morneau Shepell benchmark portfolio (55% equities and 45% fixed income).

IMPACT ON PENSION EXPENSE UNDER INTERNATIONAL ACCOUNTING

Every year, companies must establish an expense for their defined benefit pension plans.

The following graph shows the expense impact for a typical pension plan that starts the year at an arbitrary value of 100 (expense index). The expense is influenced by changes in the discount rate based on high-quality corporate and provincial (adjusted) bonds and the median return of pension fund assets.

EXPENSE INDEX FROM DECEMBER 31, 2011



(In %)												
Discount rate	4.3	4.2	4.2	4.1	4.2	4.0	4.1	3.8	3.8	3.7	3.8	3.6
Return on assets (55% equities)	n/a	2.4	1.1	0.1	-0.7	-1.9	1,3	0.4	0.9	1.9	0.5	0.1

The pension expense for the contributory plan has risen by 23% since the beginning of the year due to decreases in the discount rate since December 31, 2011.

The table below shows the discount rates for varying durations and the change since the beginning of the year. A plan's duration generally varies between 10 (mature plan) and 20 (young plan).

DISCOUNT RATE

DURATION	DECEMBER 2011	NOVEMBER 2012	CHANGE IN 2012
11	4.16%	3.50%	-66 bps
14	4.39%	3.67%	-72 bps
17	4.51%	3.79%	-72 bps
20	4.58%	3.86%	-72 bps

Please contact your Morneau Shepell consultant for a customized analysis of your pension plan.

Comments:

1. The discount rates shown reflect the educational note published by the Canadian Institute of Actuaries entitled *Accounting Discount Rate Assumption for Pension and Post-employment Benefit Plans* (September 2011).
2. The expense is established as at December 31, 2011, based on the average financial position of the pension plans used in our *2011 Survey of Economic Assumptions in Accounting for Pensions and Other Post-Retirement Benefits* report (i.e. a ratio of assets to obligation value of 85% as at December 31, 2010). Also, we are assuming that, under the international accounting, the employer elected the exemption at transition with regards to past gains and losses, and that future gains and losses are recognized in other comprehensive income (excluded from expenses shown).
3. The return on assets corresponds to the return on the Morneau Shepell benchmark portfolio (55% equities and 45% fixed income).
4. The actuarial obligation is that of a final average earnings plan, without indexing (two scenarios: with and without employee contributions).

ABOUT US

Morneau Shepell is the largest Canada-based human resource consulting and outsourcing firm focused on pensions, benefits, employee assistance program (EAP) and workplace health management and productivity solutions. We offer business solutions that help our clients reduce costs, increase employee productivity and improve their competitive positions by supporting their employees' financial security, health and well-being.

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