

**Updated as at October 30, 2007:**

### **Current Status**

Your Committee is pleased to report that progress is being made. As of the date of this posting, 3,788 of the 4,974 members in the Surplus Sharing Group have responded to the November 2006 mailing by voting "YES" to the Proposal and retaining **Koskie Minsky LLP**. There have only been 8 "NO" votes.

The Ontario Superior Court of Justice certified the matter as a class proceeding under the *Ontario Class Proceedings Act, 1992* by court order and endorsement dated October 5, 2007. The class is made up of all members of the Surplus Sharing Group (the "Sharing Group"). The purpose of the court proceeding is to obtain a court order approving the surplus sharing proposal and make it binding on all eligible members.

The notice of certification was published in *The Globe & Mail* and *La Presse* on October 27, 2007. A copy of the notice of certification was mailed directly to the 8 members of the Sharing Group who voted "NO" to the surplus sharing arrangement (or the "Proposal") and to those who have not yet voted on the Proposal. For those who voted "YES" to the Proposal, **Koskie Minsky LLP**, pursuant to our retainer with these Sharing Group members, accepted the notice on their behalf.

If you do not wish to be a class member in the court proceeding, you can opt out by following the instructions in the notice of certification. This entails sending in your intention to opt out in writing, by first class mail or fax to 416-977-3316, to:

**Koskie Minsky LLP**  
Barristers and Solicitors  
20 Queen Street West  
Suite 900, Box 52  
Toronto, Ontario M5H 3R3

Attention: National Trust Pension Surplus

**A written notice of intention to opt out of the class proceeding must be received by Koskie Minsky LLP on or before 5:00 p.m. eastern time on November 27, 2007. If you do not opt out on or before this date, you will be deemed a class member and will not be permitted to opt out of the class at a later date.**

**Please remember that there is no direct legal cost to you to participate in the Proposal, unless you opt out of the class proceedings. If you opt out of the class proceeding, you will no longer be represented by Koskie Minsky LLP, and will be responsible for obtaining your own legal advice at your own expense.**

Proceedings before the pension regulators will be commenced once the court proceedings are completed at a settlement hearing. That hearing, to seek court approval of the Proposal in settlement of the class proceeding, is currently scheduled for December 13, 2007. The regulatory proceedings will be undertaken to obtain the necessary approvals to allow for the distribution of surplus. We hope to obtain these regulatory approvals before the end of 2008, with a surplus distribution to follow. We will keep you posted, via website updates, on the progress of these applications.

### **The Toronto Star Article**

On October 12, 2007, a brief article appeared in The Toronto Star in regards to this surplus sharing arrangement. While the article was generally positive, some factual aspects in the article are inaccurate and need to be clarified. For example, the article states that the estimated surplus to be shared 50/50 is \$60 million. The information packages that were sent out to Sharing Group members in November 2006 used an estimated figure of \$81 million. This latter figure, as per the November 2006 mailing, is more accurate.

Also, while The Star's statement that the Bank will recognize transferred members' prior years of service in the National Trust pension plan within the successor Scotiabank Plan is generally accurate, to be clear, this recognition only applies with respect to post-integration date (i.e. Bank) service; that is, the portion of service for which assets and liabilities will be transferred to the successor Scotiabank plan. The portion of service for which assets and liabilities are not transferred will not be recognized for benefit accrual purposes under the successor plan.

Finally, the article may have given the impression that approval of the surplus proposal has already been received. In fact, the parties have to appear in court again to request that the court approve the settlement. As noted above, the hearing is currently scheduled for December 13, 2007. Following the settlement hearing, as also noted above, regulatory approvals will also be required before any surplus can be distributed.

These points are subtle inaccuracies but required clarification.

### **Have You Failed to Respond to the November 2006 Mailing?**

If you have not yet returned your Authorization and Retainer, it is not too late to do so. You may be surprised to learn that over 1,200 eligible Surplus Sharing Group members have not responded. Your Committee recommends that each eligible member vote "YES" to the Proposal and asks that you return your Authorization and Retainer form to **Koskie Minsky LLP** in the envelope provided as soon as possible. In order to make sure you receive your share of the surplus, your current, accurate name and address details must be on record.

### **Questions and Changes of Address**

Please feel free to contact the Koskie Minsky LLP toll-free telephone hotline (1-800-451-3225) and e-mail address ([nationaltrustpension@kmlaw.ca](mailto:nationaltrustpension@kmlaw.ca)) with any questions you may have. **If you need to update your address, please do so in writing. Send this information via fax to 416-977-3316 or mail to:**

National Trust Pension  
c/o Koskie Minsky LLP  
20 Queen Street West  
Suite 900, Box 52  
Toronto, ON, M5H 3R3

Attention: Communications Department  
Koskie Minsky LLP will do their best to return your call in a timely manner.

You may also discuss less technical matters with your Regional Negotiating or Advisory Committee Member.

**Updated as at December 13, 2007:**

Your Committee is very pleased to report that at the settlement approval hearing on December 13, 2007, the Superior Court of Justice issued an order approving the surplus sharing proposal.

The opt-out period has elapsed (with no members opting out of the class proceeding), and now that we have the order approved by the Court, the Surplus Sharing Agreement negotiated between National Trust and the Sharing Group is binding on all Members, but still must be approved by the Ontario Superintendent of Financial Services prior to any payments being made.

Proceedings before the regulator must now be undertaken to obtain the necessary approvals to allow for the distribution of surplus. We will keep you posted, via website updates, on the progress of these applications.