Pension Review Panel: Discussion Paper

May 28, 2008

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Dear Stakeholder:

The Nova Scotia Government has announced a review of the pension benefits legislation to ensure the public that best practices are being followed and retirees are being protected.

The Pension Review Panel was appointed in February 2008 and includes myself, Bill Black, former President and Chief Executive Officer of Maritime Life as Chair of the Committee, Ron Pink, an experienced labour lawyer, and Dick Crawford, from Mahone Bay, former president of the Canadian Institute of Actuaries.

The Panel will consult with employers, employees and other stakeholders to find out what needs to be done to further protect pension plans in Nova Scotia.

The purpose of this Discussion Paper is to outline some of the most significant issues that affect pension plans and to invite feedback from the people who may be affected by the changes. We ask that you review this Discussion Paper and provide your input to help the Panel move forward with making recommendations for possible amendments to the *Pension Benefits Act*. For further information, please view the Panel's website at www.gov.ns.ca/lwd/pensionreview or contact the Policy Division Toll Free at:
1-800-567-7544.

Please send any written comments by **July 4th, 2008** to:

Pension Review Panel
c/o Nova Scotia Labour and Workforce Development
Policy Division
PO Box 697
Halifax, NS
B3J 2T8

fax: 1-902-424-0575
e-mail: lwdpolicy@gov.ns.ca

Thank you for taking the time to review this material and provide input.

Sincerely,

Bill Black, Chair
Pension Review Panel

Table of Contents

1. Introduction 3
2. Background 4
3. Pension Plan Legislation 8
    3.1 Types of Plans 8
    3.2 Legislative Changes 9
4. Policy Issues 10
    4.1 Defined Benefit (DB) Plans versus Defined Contribution (DC) Plans 10
    4.2 Pension Plan Funding 12
    4.3 Surpluses 15
    4.4 Multi-Employer Pension Plans 16
    4.6 Harmonization 19
    4.7 Role of Regulators 20
    4.8 Group Registered Retirement Savings Plans (G-RRSPs) 21
    4.9 Unlocking Funds 21
    4.10 Grow-in Benefits 22
5. New Developments 23
    5.1 "Safe Harbour" Rules 23
    5.2 Phased Retirement 23
    5.3 Tax Free Savings Accounts 24
APPENDIX A 25
APPENDIX B 26
Glossary 29

1. Introduction

There have been a number of legislative and societal changes that have taken place in recent years. Labour shortages are increasing; people are changing careers more often; there are growing succession concerns, and the youth population is decreasing. Legislatively, the federal government has passed legislation allowing phased retirement which Nova Scotia has not yet enacted. An employer's right to have mandatory retirement will end in Nova Scotia in July 2009, allowing Nova Scotians to continue working if they choose.

Given the numerous changes and the fact that the last public consultation on pensions was in 1998, and given that participation rates in pension plans are declining, the Nova Scotia government announced in November 2007 that it would be creating an advisory panel to review the current pension legislative framework. As a result of this announcement, an independent Pension Review Panel was created in February 2008.

The Terms of Reference, which are available upon request, enumerate the following key objectives for the review:

- To recognize current legislative standards and review improvements that will allow pensions to work for both employers and employees;

- To enhance the affordability and availability of defined contribution and defined benefit pension plans for employers and employees;

- To protect the sustainability and security of pension benefits;

- To enhance the sharing of information to plan members;

- To eliminate unnecessary rules and regulations.

The purpose of this Discussion Paper is to outline some of the most significant issues that affect pension plans and to invite feedback from the people who may be affected by the changes.

The Panel is in the preliminary stage and will benefit from feedback in order to be able to develop a position from which they can make appropriate recommendations to the Minister of Labour and Workforce Development. To aid feedback, questions have been provided, however, feedback does not need to be limited to these questions.

2. Background

There are three pillars to Canada's pension system. The first two pillars are publicly managed (1) Old Age Security and the Guaranteed Income Supplement, and (2) the Canada Pension Plan/Quebec Pension Plan. The third pillar consists of Registered Pension Plans and Registered Retirement Savings Plans (RRSPs), which are funded by individuals and, sometimes, their employers. It is this third pillar, and in particular, Registered Pension Plans, which are the subject of this discussion paper.

According to Statistics Canada, in 2006, there were 1,438 pension plans covering 169,134 employed paid workers in Nova Scotia. Of these plans, 495 were regulated by Nova Scotia. (Statistics Canada: Pension Plans in Canada, 2006). This means that only 41.1% of employed paid workers in Nova Scotia contribute to pension plans. That's down from approximately 45.4% in 1996.

In 2006, there were about 441,800 employed paid workers in the Nova Scotia Labour Force. Approximately 272,000 workers in Nova Scotia were not members of pension plans. This includes self-employed workers, as they cannot participate in an occupational pension plan. These workers will, presumably, be relying on RRSPs, personal investments, and/or forms of government retirement income, such as Old Age Security (OAS), the Guaranteed Income Supplement (GIS), and the Canada Pension Plan (CPP). Unemployed Nova Scotians will be relying on those same sources or their situation may change as they move back into the workplace. In 2006, there were approximately 36,400 unemployed Nova Scotians[2]. Currently, the maximum that a single Canadian, who does not have RRSP or personal investment savings, and who did not pay into CPP during their lifetime, could receive would be $1136.33 per month (max OAS plus max GIS), which is approximately $13,636.00 per year. This low amount highlights the need for Nova Scotians to save for retirement whenever possible.

The Province understands that the senior population is rapidly increasing, and there will be increasing long term pressure on seniors housing and some Community Services programs if there is no encouragement of retirement savings. There are indirect costs to the Province in the provision of support programs for seniors who have reduced income in retirement. A key area of concern is for people between ages 45-65, who, if they lose their employment, have difficulty bridging to retirement if they do not have a pension plan.

In Nova Scotia, we have a large segment of the workforce covered by government or government agency pension plans. Large numbers are covered by municipal, provincial, federal, military, teachers, university or other publicly funded plans.

As was already mentioned, a number of societal changes have occurred. Generally, unemployment rates have been in decline since 1996, there has been an increased demand for labour and the youth population is decreasing. According to Statistics Canada, in 2007, approximately 17% of people in the NS workforce were over 55, as compared to approximately

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[2] Statistics Canada, Labour Force Survey, Table 282-0087, Catalogue # 71-001-XIE

10% in 1997.[3] As a result of these trends, it will be to an employer's advantage if they can encourage older experienced workers to stay on the job longer. This will be less difficult given the introduction of phased retirement.

The following tables outline Nova Scotian and Canadian pension plan membership and contribution rates, as well as the number of plans and members by the size of the membership groups.

Number of plans and members by Membership-Size Group based on Pension Plan members Employed in NS (Reference Period: January 1, 2006)

Membership Size	**Plans (in Canada)**	**Percentage**	**Members (in NS)**	**Percentage**
0				
1	67	4.7%	67	-
2-9	117	8.1%	563	0.3%
10-49	280	19.5%	4,451	2.6%
50-99	176	12.2%	5,417	3.2%
100-499	398	27.7%	20,819	12.3%
500-999	145	10.1%	11,542	6.8%
1,000-4,999	207	14.4%	30,791	18.2%
5,000-9,999	21	1.5%	11,346	6.7%
10,000 – 29,999	17	1.2%	58,711	34.7%
30,000+	10	0.7%	25,427	15.0%
TOTAL	**1,438**	**100.0**	**169,134**	**100.0**

Source: Pensions information: Statistics Canada: Pension Plans in Canada, Survey # 2609

[3] Source: Statistics Canada: Labour Force Survey, Catalogue Number 71F0004XCB - Labour Force Historical Review 2007

Pension Plan Contribution Rates, Amounts ($) and Membership for Nova Scotia and Canada

	1996		2001		2005	
	NS	Canada	NS	Canada	NS	Canada
Employed	376,900	-	415,200	14,946,200	443,100	16,167,700
RRSPs/GRRSPs						
# of contributors	143,950	5,998,430	139,190	6,241,050	133,110	6,135,980
Total Contributions ($)	615,298,000	26,381,304,000	574,546,000	24,438,914,000	608,457,000	30,581,252,000
Defined Benefit						
# of members	132,509	4,453,907	132,236	4,534,941	132,340	4,600,581
Total contributions($)	132,985,135	18,055,895,842	134,854,561	17,798,008, 709	314,017,511	N/A
# of plans	837	6,901	784	6,289	670	7,611
Total Public plan membership	82,308	2,301,478	82,887	2,361,626	87,365	2,488,453
Total Private plan membership	50,201	2,152,429	49,349	2,173,315	47,975	2,112,128
Defined Contribution						
# of members	21,769	574,769	29,389	796,088	33,633	893,403
Total Contributions($)	40,994,489	1,288,544,305	72,090,258	2,057,790,641	108,471,546	N/A
# of plans	671	8,103	732	7,310	714	7,196
Total Public plan membership	5114	99,729	6,013	132,629	6,477	156,630
Total Private plan membership	16,655	475,040	23,376	663,459	27,156	736, 773

Source: Pensions information: Statistics Canada: Pension Plans in Canada, Survey # 2609. Please note that data is as of January 1 of each year, so for example, January 1, 2006 data is 2005 in the chart; RRSP information: Statistics Canada: Canada's Retirement Income Programs 2006, Catalogue # 74-507XCB, Table 111-0039; Employment numbers: Statistics Canada: Labour Force Survey, Catalogue Number 71F0004XCB; *Please note that hybrid plans are not represented in this chart.*

Nova Scotia Contributors

	1996		2001		2005	
	Employed and % of Employed		Employed and % of Employed		Employed and % of Employed	
Defined Benefit Plan						
Total DB	**132,509**	**(35.2%)**	**132,236**	**(31.8%)**	**132,340**	**(29.9%)**
Total Public	*82,308*	*(21.8%)*	*82,887*	*(19.9%)*	*87,340*	*(19.8%)*
Public-regulated in NS	21,938	(5.8%)	25,566	(6.2%)	32,274	(7.3%)
Public-regulated elsewhere	60,370	(16%)	57,321	(13.8%)	55,091	(12.5%)
Total Private	*50,201*	*(13.3%)*	*49,349*	*(11.9%)*	*44,975*	*(10.2%)*
Private-regulated in NS	22,543	(5.98%)	21,297	(5.1%)	19,808	(4.5%)
Private-regulated elsewhere	27,658	(7.3%)	28,052	(6.8%)	25,167	(5.7%)
Defined Benefit Plan						
Total DC	**21,769**	**(5.8%)**	**29,389**	**(7%)**	**33,633**	**(7.6%)**
Total Public	*5,114*	*(1.4%)*	*6,013*	*(1.4%)*	*6,477*	*(1.5%)*
Public-regulated in NS	4,702	(1.2%)	5,397	(1.3%)	5,623	(1.3%)
Public-regulated elsewhere	412	(0.1%)	616	(0.1%)	854	(0.2%)
Total Private	*16,655*	*(4.4%)*	*23,376*	*(5.6%)*	*27,156*	*(6.1%)*
Private-regulated in NS	11,304	(3.0%)	16,343	(3.9%)	19,709	(4.5%)
Private-regulated elsewhere	5,351	(1.4%)	7,033	(1.7%)	7,447	(1.2%)
Other Types of Plans	575	(0.15%)	514	(0.1%)	979	(0.2%)
No Registered Pension Plan	222,047	(58.9%)	253,061	(60.9%)	276,148	(62.3%)

RRSPs/GRRPs	-		139,190	(33.5%)	133,110	(30.0%)

Source: pension information from Statistics Canada: Pension Plans in Canada, Survey # 2609. Please note that data are as of January 1 of each year, so for example, January 1, 2006 data is 2005 in the chart; RRSP information from Statistics Canada: Canada's Retirement Income Programs 2006, Catalogue # 74-507XCB; Employment numbers: Statistics Canada: Labour Force Survey, Catalogue Number 71F0004XCB

Note: According to Statistics Canada information, approximately half of the RRSP contributors are also pension plan members.

3. Pension Plan Legislation

The *Pension Benefits Act* governs employer-sponsored pension plans established in respect of Nova Scotia employees. It does not apply to employees engaged in work that is subject to federal jurisdiction, nor does it apply to the pension plans established for provincial public servants, teachers, judges, members of the legislature, or Sydney Steel Corporation.

The main objective of the *Pension Benefits Act* is to safeguard employee entitlements to benefits promised under pension plans.

The goals of pension legislation and regulation have been:

1. To isolate pension funds from employer funds;
2. To provide vesting so that benefits are not lost.
3. To ensure that employees have appropriate access to benefit information.
4. To provide appropriate rules for the protection and benefit of employees in the event of discontinuation of employment, early or late retirement; and of spouses or beneficiaries in the event of the employee's death, or marriage breakdown.
5. To ensure that pension promises are sustainable.

Question:

Should pension legislation and regulation have goals other than those listed?

3.1 Types of Plans

There are two main types of pension plans; a defined contribution/money purchase type; or a defined benefit type. Under a defined contribution/money purchase plan, contributions required by the employer and/or employees are clearly defined. The resulting pension benefit for each employee is whatever can be provided or purchased by the accumulated contributions and investment earnings.

A defined benefit plan contains a specific formula as to the amount of pension each member is to receive. Effectively, the employer/administrator guarantees to provide this level of benefits and it is necessary for an actuary to estimate periodically how large the fund should be and how much should be contributed to ensure adequate funding of the benefits. To date, the most common type of plan is a defined benefit plan.

A third, but less used, form of pension plan is a Hybrid plan. A Hybrid plan has elements of both a DB and DC plans, and can take a variety of forms. For example, at retirement, members in hybrid plans could get two income streams: the DB pension (funded by employer contributions) and the payout from the DC balance (arising from employee contributions).[4]

[4] Bruce Cohen and Brian Fitzgerald, *The Pension Puzzle: Your Complete Guide to Government Benefits, RRSPs and Employer Plans*, 3d ed. (Mississauga: John Wiley & Sons Canada, Ltd., 2007) at 89-90.

While not used in a great deal now, hybrids may be a way to facilitate more DB plans in the future, as they can decrease the risks for employers.

Question:

Are there plan designs not in use that would provide the benefits of DB plans while minimizing risk?

3.2 Legislative Changes

Over the last few years, Nova Scotia's legislation has been amended to:

(a) curtail the funding impact of "grow-in" provisions. Under the *Pension Benefits Act*, a pension plan which provides members with unreduced early retirement benefits must, on wind-up, provide members whose age plus service is at least 55 with the right to "grow-in" to those unreduced early retirement benefits. An amendment to the *Act* was made which removes the requirement to fund grow-in benefits under solvency valuations; however, these provisions continue to apply on full or partial wind-ups; Grow-in costs were estimated to add up to 35%, in extreme cases ,[5] to employer, and in some cases, employee contributions, and yet only applied to limited situations.

(b) provide extensions to the solvency funding requirements for municipalities, universities and multi-employer pension plans; the details of the funding relief are outlined below; and

(c) add terminal funding provisions for DB plans on wind-up. A wind-up occurs when a defined benefit plan is terminated and its assets are distributed to provide for the benefits accrued under the plan. The Province of Nova Scotia has amended the *Pension Benefits Act* to require an employer to fully fund a pension plan when a company winds up. Because of these changes, plan members receive further protection when a pension plan that is not fully funded is wound up.

Recently, the federal government has made changes to federal income tax legislation that will allow older workers to continue working on a part time basis, continue contributing to a pension plan, and receive part of their pension benefits at the same time.

These changes will be discussed later in this paper.

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[5] Watson Wyatt, *Pension Plan Solvency: Weathering the Storm* (2004) Watson Wyatt

4. Policy Issues

4.1 Defined Benefit (DB) Plans versus Defined Contribution (DC) Plans

There are concerns that Canadians are not adequately saving for retirement. As noted earlier, in 2006, there were approximately 272,000 Nova Scotians who did not pay into a pension plan. While a portion of these will, presumably, have savings in the form of RRSPs or personal investments, it can be assumed that a portion will not have such savings and will be relying on government retirement income such as OAS, GIS and CPP. Because many Canadians may not be adequately saving for retirement, some suggest that DB plans should be encouraged, as they are the best way for individuals to save for retirement. The essential feature of a Defined Benefit plan is that sponsors promise members a given pension upon retirement – sometimes a specified dollar amount; more usually an amount linked to pre-retirement earnings.[6] DB plans don't require members to have investment expertise in order to save for retirement. The former Governor of the Bank of Canada, David Dodge, in November 2005, encouraged employers to maintain DB plans and confirmed their importance as an "economically efficient way of transferring risk to those that are best able to bear it".[7]

In contrast to Mr. Dodge's view, however, is the fact that DB pension plans are not as popular with employers as they once were due to the risks associated with them. Some employers are closing out their DB plans to new members and are moving to DC plans or other savings plans, such as Group Registered Retirement Savings Plans. The obligations of most DB plans are liabilities to sponsors.[8] Employers in single-employer plans bear the risk of investing properly, considering declining long term interest rates, rapidly improving longevity, and being responsible for any deficits that may result. While surpluses are also possible, employers may not be entitled to them. The issue of surplus is contentious and will be discussed in more detail later. As a result of this "asymmetry", employers bear all of the responsibility and may not see any or much of the benefits from good investments on their part. Given this reality, according to Towers Perrin, "Private sector coverage by Canadian pension plans, particularly DB plans, has eroded over the past 15 years and virtually no new DB plans are now being established"[9]. Ultimately, sponsors are not happy about the cost of DB plans, the exposure to risk from these plans, and the fact that many employees do not appreciate DB plans until they are close to retirement. Given the concerns and "asymmetry" of permitted DB plans, regulators have to determine whether or not to permit changes to the design of DB plans which

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[6] David Laidler and William BP Robson, *Ill-Defined Benefits: The Uncertain Present and Brighter Future of Employee pensions in Canada* (June 2007) CD Howe Institute Commentary, No 250 at 2.

[7] Towers Perrin, *The 21st Century Pension System: Solving the DB Funding Conundrum* (January 2008) at 3, online: Towers Perrin http://www.towersperrin.com/tp/getwebcachedoc?country=cane&webc=HRS/CAN/2008/200801/DB_Funding_Conundrum.pdf

[8] David Laidler and William BP Robson, *Ill-Defined Benefits: The Uncertain Present and Brighter Future of Employee pensions in Canada* (June 2007) CD Howe Institute Commentary, No 250 at 3.

[9] Towers Perrin, *The 21st Century Pension System: Solving the DB Funding Conundrum* (January 2008) at 3, online: Towers Perrin http://www.towersperrin.com/tp/getwebcachedoc?country=cane&webc=HRS/CAN/2008/200801/DB_Funding_Conundrum.pdf

may make DB plans more attractive and less risky for employers. Making such a change may encourage employers to maintain their DB plans, and perhaps, encourage the creation of new DB plans.

There were a total of 177 active DB plans regulated by Nova Scotia as of April 2008. The following is a breakdown of how many plans were admitting new members versus those that were not:

	Public Plans	Private Plans
Plans admitting new DB members	19	145
Plans not admitting new DB members	1	12

Approximately 8% of active DB plans regulated by Nova Scotia are not admitting new members to the plan.

In the case of DC plans, surplus and underfunding issues don't apply, and there is no volatility for employers because costs are a fixed percentage of payroll. In most plans, plan members usually direct their investments. The biggest risk for plan members is retiring with insufficient funds[10] due to such things as contributions that are too low, poor investments, high fees, and inept cash outs. However, the sponsor is involved in the selection of investment managers and the investment vehicles that are offered. As a result, the sponsor bears the risk of criticism and possible litigation due to failure to educate members, poor selection of investment vehicles and managers[11], and excessive fees on investments.

In 2004, the Joint Forum of Financial Market Regulators released the Guidelines for Capital Accumulation Plans (CAP). CAPs are investment or savings plans that permit members of the CAP to make investment decisions among two or more options offered within a plan. DC plans are one example of a CAP. The intent of the Guidelines is to:

- outline and clarify the rights and responsibilities of CAP sponsors, service providers and CAP members; and
- to ensure that CAP members are provided information and assistance that they need to make investment decisions.

The CAP Guidelines are voluntary; however, the Canadian Association of Pension Supervisory Authorities (CAPSA) expected that all CAPs operate in accordance with these guidelines by

[10] Towers Perrin, *Emerging Trends and Directions in Pension Governance* (2007) at 3, online: Towers Perrin http://www.towersperrin.com/tp/getwebcachedoc?country=cane&webc=HRS/CAN/2007/200711/Towers_Perrin_Pension_Governance_E.pdf

[11] Gordon Hall, *20 Questions Directors Should Ask About their Role in Pension Governance* (2003) at 8 online: Canadian Institute of Chartered Accountants http://www.cica.ca/multimedia/Download_Library/Research_Guidance/Risk_Management_Governance/Recent_Publications/CICA_20Qs_PensionsENG.pdf

December 31, 2005.[12] The hope is that by following the guidelines, a sponsor could demonstrate that they were meeting accepted standards.

While members bear the investment risk, one of the benefits to DC plans is the portability. DC benefits are linked to individuals, rather than a pool of contributors. As some workers change jobs fairly often, an individual's ability to take their pension benefits with them may be very attractive.

Some concerns about DC plans include the restrictions on auto-enrolment and default contribution rates, and the necessity to convert funds on a particular day. The requirement to convert retirement funds as of the date of retirement, regardless of the interest rate levels etc on that day, is not always the best option for members. The possibility of a member being able to leave their assets in the plan and receive a Life Income Fund(LIF) type payment, while letting the employer continue to manage the investments, might be advantageous to a member. However, that type of arrangement is not currently available under the legislation, but it is contemplated under CAPSA model law.

Questions:

Should the current trend towards less DB plans be accepted, or should regulators permit DB plans that may be more attractive to employers by reducing funding risks?

In the case of DC plans, to what extent should an employee's right to make investment choices be limited, and by whom?

Should new forms of DB pension plans be permitted to enhance their availability?

Should new forms of Hybrid pension plans be permitted to enhance their availability?

Should DC members have the ability to use different disbursement options, such as LIF type payments, rather than be required to convert funds on their retirement date?

4.2 Pension Plan Funding

There are currently two types of funding requirements: going concern funding and solvency funding. Going concern funding looks at the plan's funded status on the basis that the plan will continue to operate indefinitely.[13] Solvency funding tests whether a plan has sufficient assets to cover all the liabilities of the plan should it be wound up.

[12] CAPSA, *Guideline No. 3: Guidelines for Capital Accumulation Plans* (May 2004), online: CAPSA http://www.capsa-acor.org/capsa-newhome.nsf/4a5938dfa169be3285256c1a00752c5d/bbe9515c561d349485256e91004f5e64?OpenDocument
[13] Cameron Hunter, Tom Levy, Michael Mazzuca and H. Clare Pitcher, *Saved from Solvency Funding* (November 2007) Benefits Canada at 57, online: Benefits Canada http://www.benefitscanada.com/pension/db/article.jsp?content=20071129_141520_6144

Defined contribution pension plans are solvent by the very nature of the plans.

The measure used to determine the security DB plans is that of the solvency of the plan. Some of the factors included in these valuations are retirement age assumptions, and future longevity and investment returns. A plan is not fully solvent if it does not have enough assets to meet all obligations if it were wound up at the time of the valuation.

Of the DB plans registered in Nova Scotia in 2001, 93% of members were in plans that were fully funded on a solvency basis. That number had reduced to 82% in 2002, to 69% in 2003 and to 49% in 2004. In 2005, the number of members in plans that were fully funded on a solvency basis had risen to 56%; however, in 2006, this number fell again to 53%.

In Nova Scotia, if defined benefit plans are not fully solvent, they must have a strategy in place to achieve full solvency funding within 5 years. However, there are currently three exceptions to the requirement to achieve full solvency funding within 5 years.

Firstly, the Government reviewed the request of university plan administrators for additional flexibility in funding their plans and amended the Regulations in 2005 to allow universities a time extension to pay back any solvency deficiencies over 15 years as opposed to 5. This extension applies only to solvency deficiencies that arise prior to January 1, 2006 under university pension plans. If there is a partial wind up of a university plan, due to outsourcing a particular service or terminating a program, immediate and full funding of the benefits payable in respect of those employees is required. If at the end of the 15 years a solvency deficiency still exists, the original solvency funding rules would apply, and the deficit would have to be funded within 5 years.

Secondly, the Province of Nova Scotia has amended the *Pension Benefits Act* Regulations to provide for a three-year exemption from solvency funding for specified multi-employer pension plans. Because of these changes, specified multi-employer pension plans will not have to make an immediate reduction in accrued benefits to meet the solvency funding requirements. The temporary relief will address immediate funding concerns for specified multiemployer plans. However, the government will have to decide how to address their deficiencies in the future.

Finally, the Province has responded to some concerns around solvency funding requirements for municipalities. In 2006 and 2007, the Province amended the *Pension Benefits Act* Regulations to provide an exemption for municipalities to the requirement to fully fund a new solvency deficiency over five years. With the amendment, the municipalities can elect to fund their plans to only 85% solvency, with solvency payments to be made over a five-year period; any deficiency on partial wind-up must be fully funded. During the period of solvency funding relief, no amendments can be made to increase the liabilities of a municipality pension plan unless the cost of the amendment is paid at the time the amendment is made. While the municipalities currently enjoy this exemption, it is currently only available for the next ten years. As a result, under this exemption, if they are not solvent, they cannot offer their members an increase to pensions in pay as a means of mitigating inflation. Some see this as unfair given the expectation of 2 % inflation into the future. As with the issue with multi-employer plans, the

Province will have to determine how solvency funding for municipalities will be addressed in the future.

The solvency funding rules for universities, municipalities and multi-employer pension plans vary across the country. The following are some examples of how other Canadian jurisdictions handle solvency funding issues for these groups:

- In Ontario, these groups are all subject to solvency rules in the Pension Benefits Act, with only one exception. The Specified Ontario Multi-Employer Pension Plan is exempt from solvency funding, but must amortize going concern funding deficiencies over a period of 12 years.

- In Manitoba, municipalities and MEPPs are subject to solvency funding rules, but universities, while subject to notice requirements, are permanently exempt from solvency funding payments.

- In Alberta, while universities and municipalities are required to disclose their solvency position, they are not subject to solvency funding. The exemption for universities is conditional on employers guarantee to pay any solvency deficiency on plan termination.

- In British Columbia, there are four public sector plans, including a Municipal Pension Plan, to which all municipalities belong, and a College plan for instructors at colleges, but not at universities. The plan terms for these plans is determined by a joint board or trustees. Under the trusteeship, employers and employees share equally in the funding, for both current service and unfunded liabilities, and any surplus that may arise. In the case of colleges, if an individual college provides a DB plan outside of the College Plan, they are subject to the same funding rules as any other single employer pension plan. Plans sponsored by universities and Multi employer DB plans are subject to the same funding rules as all other DB plans in the province. There are no legislated exceptions.

- In Saskatchewan, universities, municipalities and multi-employer pension plans are subject to the same solvency funding rules as single employer plans pursuant to The *Pension Benefits Act*, without exception.

- In New Brunswick, universities, municipalities and multi-employer pension plans are all subject to the same solvency funding rules as a single employer plans unless they fit within one of the exceptions. University and municipal plans can apply for an exemption to solvency funding. Multi-employer plans, like all other pension plans in NB, can apply to the Superintendent for an extension in the solvency amortization period to a date on or before Dec 31, 2018.

One alternative that may make sense for some Nova Scotian employers would be a province wide, pension plan, for entities such as universities and municipalities. Such a plan could be set up in various ways. In other provinces, plans of this type are not allowed to transfer

actuarial risk to the government. The following are some possible options that could be considered:

(1) Employers could each design their own plans, but the assets for investments could be pooled into one fund, and the employers would be responsible for the actuarial risks;
(2) There could 2 or 3 benefit models that employers could choose from, the assets for investment would be pooled, and the employers would be responsible for the actuarial risks;
(3) A Hybrid pension plan could be used.

Questions:

Are current rules for measuring and remediation of going concern and solvency deficits appropriate?

Should there be exceptions to the funding rules for universities, multi-employer pension plans and municipalities, or anybody else?

Should going concern funding still be a requirement?

Should promises as to future benefit accrual be restricted to the level that can be funded by contributions?

Should there be a requirement for full funding at wind-up?

Is the idea of a province wide pension plan for some public or private employers a good idea? Should such a plan operate as a multi-employer pension plan?

4.3 Surpluses

Surpluses, like under funding, is only an issue for DB plans. When the assets of a plan exceed the liabilities, the excess is considered a surplus. However, it is important to note that a surplus does not always mean there is extra money in the pension fund.[14] Surpluses, like deficits, are tied to the pension plan's investments, so while a rise in the market today could mean a surplus, a dip in the market tomorrow could leave a plan in deficit. DB plans can do better than expected and find themselves in a surplus situation. Therefore, it could be argued that a surplus isn't a surplus until wind-up. It is just over funding for the time being, as it could change as a result of variations in the market, interest rates, etc.

The question of who owns surpluses is contentious. It has been before the court on more than one occasion, but questions remain. In the 2004 Monsanto case, the Supreme Court of

[14] Bruce Cohen and Brian Fitzgerald, *The Pension Puzzle: Your Complete Guide to Government Benefits, RRSPs and Employer Plans*, 3d ed. (Mississauga: John Wiley & Sons Canada, Ltd., 2007) at 147.

Canada stated that "a surplus is, in effect, a windfall because it was not within the expectations of either the employer or the employees when the regime was implemented". As a result, the court decided that on a partial wind-up, surpluses should be distributed immediately.[15]

Case law, however, is not the only factor when it comes to surpluses. Legislative provisions also play a part. The *Income Tax Act* only allows pension plans to be funded to a maximum of 110%. As a result, sponsors cannot contribute beyond this amount, which often leads to contribution holidays for sponsors. Some suggest that this 10% limit should be increased. [16] As a result of case law and legislative issues, sponsors are not interested in accumulating a surplus that they may not be entitled to. The concern is that by not contributing more than the minimum amount, plans may find they are in a deficit situation if their investments drop in value.

Some recent jurisprudence declares that pensions are considered by some as "deferred wages". The concept of future employees and employers making ongoing contributions today for a future pension is seen by some employees and employers as putting current wages in a pension plan rather than placing that same money in a weekly pay package of the employee.

The concept of "deferred wages" conflicts with some other views that the full burden of pension funding rests with employers.

Thus, there is often a conflict position over the basic and underlying concepts of funding pension plans. This conflict needs to be reflected upon as it pits expectations of past and current members against aspirations of potential future members.

Questions:

Should regulators speak to the question of the ownership of plan surpluses? If so, what should it say?

Is the concept of "deferred wages" valid? And if so, is there any current validity to it with respect to the determination of the responsibility for funding and for entitlement of surplus?

4.4 Multi-Employer Pension Plans

Specified Multi-employer pension plans are typically for unionized workers such as plumbers, carpenters, electricians, etc, who are hired for short periods of time. Pension contributions are made for each hour worked by the employee. The contributions are administered by a Joint Board of Trustees. The solvency funding rules apply to MEPPs, however, there is a difference in how funding deficits are handled. While normally a DB plan sponsor must fund any deficits,

[15] *Monsanto Canada Inc.* v. *Ontario (Superintendent of Financial Services)* 2004 S.C.C. 54
[16] David Laidler and William BP Robson, *Ill-Defined Benefits: The Uncertain Present and Brighter Future of Employee pensions in Canada* (June 2007) CD Howe Institute Commentary, No 250 at 9.

in the case of MEPPs, the plan employers only contribute what has been negotiated in the collective agreement, and the Trustees must reduce the accrued benefits to the level that is funded until such time that the union and employers may renegotiate the level of contributions to the plan.[17] MEPPs are different from single employer DB plans as they are permitted and, in some instances required, to reduce benefits, rather than be required to increase the contributions. As a result, benefits can go up and down for members.

As noted earlier, the Province of Nova Scotia has amended the *Pension Benefits Act* Regulations to provide for a three-year exemption from solvency funding for specified multi-employer pension plans. Because of these changes, specified multi-employer pension plans will not have to make an immediate reduction in accrued benefits to meet the solvency funding requirements. The temporary relief will address immediate funding concerns for specified multiemployer plans. However, how future funding concerns will be addressed has to be decided as funding deficiencies will be greater at the end of the three year exemption.

One possible alternative would be to permit MEPPs to use a different type of Hybrid Pension Plan, rather than a DB plan.

A noted earlier, Hybrid plans contain both DB and DC elements and come in a variety of forms. Typically, the employer is responsible for the DB portion of the plan, while the employee is responsible for contributing to the DC portion. Some employers offer two pension streams at retirement (a DB stream and a DC stream), while others offer the benefits from which ever stream is better at the time of retirement. Currently, Nova Scotia law requires employers, not employees, to make up any shortfall in funding in the DB portion of the plan. As a result, employers in current Hybrid plans experience the benefit of decreased risk due to the overall decreased level of DB benefits, but questions have been raised as to whether this decreased risk is sufficient, in and of itself. Perhaps changes should be made to the legislation to allow more flexibility in the design of Hybrid plans. One example of greater flexibility in design is to allow Hybrid plans to reduce benefits, such as with Quebec's Hybrid plans.

Quebec has developed a hybrid plan that may provide a solution to employer's concerns about DB plans. Quebec's hybrid plan provides the "predictability of a DB plan while freeing employers from concerns about deficits and surplus ownership". The plan offers a pre-set pension based on a DB formula, so that members know what they will get when they retire and don't have to worry about making their own investments. The employer contributes a fixed amount, like a DC plan, but if the plan incurs a deficit, the members must increase their contributions or accept reduced benefits. If the plan runs a surplus, it belongs to the members.[18] Such a plan, given its risk sharing nature, may be a way to facilitate more DB plans in the future, given employer's concerns with the risks associated with the current DB plans.

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[17] Bruce Cohen and Brian Fitzgerald, *The Pension Puzzle: Your Complete Guide to Government Benefits*, *RRSPs and Employer Plans*, 3d ed. (Mississauga: John Wiley & Sons Canada, Ltd., 2007) at 65-66.
[18] Bruce Cohen and Brian Fitzgerald, *The Pension Puzzle: Your Complete Guide to Government Benefits*, *RRSPs and Employer Plans*, 3d ed. (Mississauga: John Wiley & Sons Canada, Ltd., 2007) at 90.

In the case of MEPPs, a Hybrid plan would allow for the fluctuations in the level of solvency funding. If a Hybrid plan like Quebec's was used, the employer would contribute a set amount and, in the case of deficits, the employee would decide whether they want to contribute the difference, or accept reduced benefits. This would provide employees with more control over the level of benefits they are entitled to, as well as minimizing volatility for employers.

Questions:

How should funding concerns for MEPPs be addressed? Would permitting the implementation of a different type of Hybrid pension plan be useful for MEPPs?

Which of the funding tests should apply to MEPPs?

Should regulators facilitate the further development of hybrid plans? Would the Quebec model be an attractive option for Nova Scotia employers?

4.5 Governance

Pension governance is important because pension plans and funds are important, not only to the individual members, but also to society at large and to the economy. Litigation in the area of pensions is on the rise, especially in the areas of fund surpluses, benefit administration and payment of expenses.[19]

The main objective of the *Pension Benefits Act* is to safeguard employee entitlements to benefits promised under pension plans. It is known in the pension industry that inadequate governance of pension plans can cause many problems for a plan, including underfunding. Currently, the only governance issue that is regulated by the *Pension Benefits Act* is around the issue of administration. The *Act* outlines the requirements for who can be an administrator and requires that administrators use "care, diligence, knowledge and skill" in the performance of their duties. In addition, the Superintendent of Pensions has the ability to replace an administrator, if necessary, but only on wind-up of a plan.

Given the concerns around inadequate governance, CAPSA has developed "Pension Plan Governance Guidelines" which were designed to assist pension plan administrators to fulfill their governance responsibilities by "achieving and maintaining god governance practices". These guidelines do not provide "safe harbour" protection.[20] These guidelines are just that, guidelines. They are not binding. To date, no Canadian jurisdiction has defined or legislated what is "good governance". To do so would be extremely difficult. Putting rules around governance would place greater responsibility on the Superintendent of Pensions and would

[19] David Laidler and William BP Robson, *Ill-Defined Benefits: The Uncertain Present and Brighter Future of Employee pensions in Canada* (June 2007) CD Howe Institute Commentary, No 250 at 4-5.
[20] Ian McSweeney, Michael Benoit and Sandra W. Cohen, *Canadian Pension Law* (2007) 2006/2007Lexpert CCCA/ACCJE Corporate Counsel Directory and Yearbook, online: http://www.osler.com/uploadedFiles/Resources/Publications/OslerHoskinHarcourtLLP-Lexpert-Pensions&Benefits.pdf

require more resources in the form of time and people. However, recently, Quebec has instituted some new governance rules, such as requiring pension committees to adopt internal by-laws to establish their rules of operation and governance. The Quebec Supplemental Pension Plans Act lists 10 matters that must be covered by internal bylaws. These include things such as: ethics rules, duties and obligations of members, procedures for and frequency of meetings, risk management measures, internal controls, and standards that apply to the services rendered by the Committee.[21]

Questions:

Should government attempt to define, audit, and regulate "good governance"? Why or why not? Is so, what types of governance issues should be regulated?

Given that there are associated costs with governance, what is an appropriate cost for "good governance"?

4.6 Harmonization

Private sector pension plans are regulated provincially except where they are in federally regulated industries, such as airlines. Given that it is possible to have members of a Nova Scotia pension plan working in other provincial jurisdictions, such a pension plan must be compliant with the pension legislation of multiple jurisdictions.

Nova Scotia has agreements with the federal government and with other provinces that have pension legislation that provide for reciprocal registration, audit and inspection of pension plans. Under these agreements, a pension plan that is subject to the legislation of more than one authority is supervised by the jurisdiction which has the greatest number of plan members. The regulatory body in the jurisdiction of registration applies the rules of other jurisdictions, where applicable. The Canadian Association of Pension Authorities (CAPSA) is working on the development of a new reciprocal agreement to replace the current agreement that has been in place since 1968.

While these agreements are helpful, complying with legislation from several jurisdictions can be difficult.

The Canadian Association of Pension Supervisory Authorities (CAPSA) has been working on the development of model pension law aimed at developing modern, harmonized pension standards for all of Canada. That model would then be considered by provincial and federal jurisdictions as their respective pension standards come up for renewal. The Model Law project is nearing completion. Nova Scotia will consider incorporating changes suggested by CAPSA. For further information on model law, please refer to the following website: www.capsa-acor.org.

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[21] Regie Des Rentes Du Quebec, *Newsletter: Supplemental Pension Plans*(Dec 2007) Regie Des Rentes Du Quebec, Number 22.

4.7 Role of Regulators

Regulators are responsible for administering pension legislation and ensuring compliance with that legislation. In Nova Scotia, the Superintendent of Pensions, Pension Regulation Division, is responsible for the administration and enforcement of the *Pension Benefits Act*. These responsibilities include ensuring pension plans meet minimum funding standards and minimum benefit standards in respect of eligibility requirements, vesting and locking-in, employer contributions, transfer rights, spousal benefits, prohibitions against sex discrimination and disclosure of information.

Regulators should be neutral as to the format of retirement plans. While Defined Benefit plans are advantageous to many people, Defined Contribution plans are more beneficial for some. The choice between these two types of plans should be made by employers rather than having a certain type of plan encouraged by government.

Regulators should not attempt to regulate the adequacy of retirement income. While adequacy is a concern, it is not for regulators to decide what is adequate and what is not.

Under the current appeal system, the Superintendent of Pensions makes a proposed decision or order. If the plan administrator appeals, a hearing with the Superintendent will be held, the purpose of which is to allow the plan administrator to present all their information. After the hearing, the Superintendent will then review the information and make a decision or order that may, or may not, be different from the proposed decision. If the plan administrator does not agree with the decision, it can be appealed to the NS Supreme Court. In some jurisdictions, after an initial decision by the Superintendent, instead of having a hearing with the Superintendent, the plan administrators would have their appeal heard by an Appeal Commission. There has been some thought that perhaps NS should change the pension appeals system.

Questions:

Does the current regulatory system work effectively? Are there currently unnecessary rules and regulations in place? If so, what are they? Should the appeal process be changed? If so, how?

Should a plan have a minimum number of members before the government will regulate it? If so, what minimum number of members would be appropriate?

4.8 Group Registered Retirement Savings Plans (G-RRSPs)

Many employers are choosing to offer employees Group RRSPs rather than a DC plan. Group RRSPs are not subject to the *Pension Benefits Act* and, as a result, they are not regulated and they require less administration. Group RRSPs operate like individual/personal RRSPs; it is a "collection of personal RRSPs administered by one financial organization"[22]. Some employers contribute to these Group RRSPs, while others do not.

The rules around G-RRSPs are very different than registered pension plans. Unlike registered pension plans, once the money goes into the plan, it belongs to the individual. There is no vesting period, and federal legislation allows for withdrawals from RRSPs. Some employers, however, do put controls on G-RRSPs, such as not permitting withdrawals during employment. Another difference between registered pension plans and RRSPs is the fact that employers can unilaterally make changes to a G-RRSP plan, such as halting or changing contributions. In addition, RRSPs can be used all at once or over time, depending on the wishes and discipline of the individual, unlike registered pension plans which are structured to be paid out over time.[23]

While there are benefits to employers for using G-RRSPs instead of registered pension plans, the concern is that employees do not have the protection of the *Pension Benefits Act*. Poor money management by individuals, or poor choices by employers, could lead to insufficient pension savings.

4.9 Unlocking Funds

In Nova Scotia, all pension plan funds, once vested, are locked in, with only three exceptions which are:

> (1) in the case of terminal illness; Locked-in retirement account or life income fund contract must allow for the withdrawal of a lump sum of locked-in pension benefits due to shortened life expectancy. To unlock an entitlement under this provision, a physician must certify that, due to a mental or physical disability, an individual's life expectancy is likely to be shortened considerably.
>
> (2) requests for small amounts; A person age 65 or older may unlock locked-in pension funds if the sum of their entitlements in every locked-in retirement account, life income fund or defined contribution pension plan subject to pension legislation is less than 40 per cent of the year's maximum pensionable earnings under the Canada Pension Plan. In 2008, amounts under $17,960 could be unlocked.

[22] Bruce Cohen and Brian Fitzgerald, *The Pension Puzzle: Your Complete Guide to Government Benefits, RRSPs and Employer Plans*, 3d ed. (Mississauga: John Wiley & Sons Canada, Ltd., 2007) at 81.
[23] Bruce Cohen and Brian Fitzgerald, *The Pension Puzzle: Your Complete Guide to Government Benefits, RRSPs and Employer Plans*, 3d ed. (Mississauga: John Wiley & Sons Canada, Ltd., 2007) at 81-82.

(3) in cases of financial hardship; An individual may be entitled to withdraw some of their locked-in pension funds due to financial hardship. They may qualify if they have medical expenses that are not reimbursed from any other source, if they facing foreclosure on their mortgage, or if their income is below 40% of the years maximum pensionable earnings under the Canada Pension Plan.

In other jurisdictions, such as the federal government, Manitoba and Alberta, individuals are allowed to unlock up to half of their pension funds at retirement.

The inability to access employer and employee contributions is felt by some to discourage participation in pension plans.

Question:

To what extent should regulators attempt to regulate an employee's right to access funds?

4.10 Grow-in Benefits

Employers, and in some cases, employees, in Nova Scotia have advised the Government that funding defined benefit pension plans has become onerous following the decline in the financial markets and the continuing low rates of return. This situation is not unique to Nova Scotia, and several other provinces have made changes to assist plans in responding to market pressures.

After due consideration, with a view to maintaining defined benefit pension plans for employees, the Government responded to this concern by amending the Pension Benefits Regulations in 2004 to remove the requirement to fund "grow-in" benefits under a solvency valuation. As noted by Watson Wyatt, when grow-in benefits are a part of solvency valuations, the value of these grow-in rights can "add significantly to the solvency liabilities for active members. Depending on the generosity of the plan's early retirement provisions and the demographics of the plan's membership, the liabilities can increase by more than 35% in extreme cases". [24]

Under the *Pension Benefits Act*, plan administrators are required to provide members not yet eligible for early retirement with the right to "grow in" to unreduced, early retirement benefits provided under a pension plan, where a defined benefit pension plan is winding up. In this amendment to the regulations, "grow-in" provisions continue to apply on full or partial pension plan wind-up; however, their priority on pay out would be second to the basic pension that all employees would receive. "Grow-in" benefits would only be paid out if there were sufficient assets in the fund at the time of wind up of a plan to provide for those benefits. However, with changes made in 2007, an employer is required to fund grow-in benefits on wind-up. The

[24] Watson Wyatt, *Pension Plan Solvency: Weathering the Storm* (2004) Watson Wyatt

"grow-in" provisions do not exist in any other provincial jurisdiction in Canada, other than Nova Scotia and Ontario.

Questions:

Should the legislation require grow-in benefits to be provided on plan wind-up?

Should legislators maintain the requirement to fund grow-in benefits upon wind-up?

5. New Developments

5.1 "Safe Harbour" Rules

Employers' desire to limit liability for pension plan administration has led many to offer DC pension plans rather than DB pension plans. However, employers are still concerned about the investments that are needed with DC plans. As discussed earlier, while employees bear the investment risk, sponsors are still liable for poor investment options, managers, etc.

As a result of these concerns, it has been suggested that the legislation be amended in such a way that employers are protected from litigation if they follow certain "best practices". The hope would be that by following these "best practices", sponsors would be protected from litigation by showing that they were meeting industry standards. The U.S. has such "safe harbour" rules.

Question:

Should "safe harbour" rules be established that would give DC plan sponsors and administrators protection from litigation?

5.2 Phased Retirement

In 2007, the federal government has made changes to the federal income tax rules that will allow workers to continue working, continue to accumulate pension benefits and receive part of their pensions as well. This change will hopefully, encourage older workers to continue working on a part time basis, before retiring from the work force completely. An amendment to the *Pension Benefits Act* will be required in order to facilitate phased commencement of benefits with the same employer in Nova Scotia.

Question:

What other issues are raised by phased retirement and what should be the regulatory position of Nova Scotia?

5.3 Tax Free Savings Accounts

In the 2008 Budget, the federal government introduced a new Tax Free Savings Account (TFSA), which will allow Canadians to set money aside in eligible investment vehicles and watch those savings grow tax-free. Some of the highlights of the TFSA are:

- Canadians eighteen and older can save up to $5000 every year in a TFSA;
- Contributions will not be deductible for income tax purposes, but investment income earned in a TFSA will not be taxed, even when withdrawn;
- Unused TFSA contribution room can be carried forward to future years;
- Can withdraw funds at any time for any purpose;
- Amount withdrawn can be put back at a later date without reducing contribution room.
- Neither income earned in a TFSA nor withdrawals will affect your eligibility for federal income-tested benefits and credits;
- Contributions to a spouse's TFSA will be allowed and TFSA assets can be transferred to a spouse upon death. [25]

The new TFSA may make sense for many, including low income, and current non-savers, as these accounts allow people to have access to their savings at any time and provide more favourable tax treatment. TFSAs are an attractive alternative, and the government may want to regulate them so as to facilitate inclusion in group plans. The federal government has set up TFSAs so that contributions do not affect eligibility for the Guaranteed Income Supplement (GIS). The provincial government may also want to consider how it will respond to TFSAs for low income seniors.

Question:

What should be the regulatory position of Nova Scotia be with respect to TFSAs for pension purposes?

[25] Department of Finance Canada
http://www.budget.gc.ca/2008/pamphlet-depliant/pamphlet-depliant2-eng.asp

APPENDIX A

Other Applicable Legislation

The *Pension Benefits Act* is not the only piece of legislation that affects pension plans in Nova Scotia. There are many federal statutes that impact upon pension plans. Some changes to pension plans require changes at the federal level. For example, in order to change surplus rules, changes would need to be made to the *Income Tax Act,* as it currently only allows for a maximum surplus of 10%. Other changes may require changes to other provincial statutes. Some of the legislation that impacts pension plans is:

- *Income Tax Act* (Canada)
- *Companies Creditors Arrangements Act* (Canada)
- *Bankruptcy and Insolvency Act* (Canada)
- Insurance legislation
- Human Rights legislation
- Privacy and Freedom of Information legislation

APPENDIX B

Comparison of some Multi Employer Pensions Plans (MEPPs)

Ontario

Ontario MEPPs may be jointly sponsored pensions plans. Both the employers and employees share the funding on deficits and surplus. Cost for contributions is set at the plan level and, the benefit formula applies to every member of this plan. In Ontario, most of the province's municipalities participate in a single public sector MEPP (*Ontario Municipal Employees Retirement System)* which is a jointly sponsored pension plan.

OMERS was established in 1962 as the pension plan for employees of local governments in Ontario. On June 30, 2006, the *Ontario Municipal Employees Retirement System Act, 2006* (the OMERS Act) came into effect. The new Act continued the Ontario Municipal Employees Retirement Board as the OMERS Administration Corporation (AC) and created a Sponsors Corporation (SC) to replace the Ontario government as plan sponsor. Sponsors (such as plan members, employers and retirees, through their unions, associations and other organizations) appoint the Board members of the SC and the AC.

The AC is responsible for the day to day administration of the plan including responsibility for pension services, administration, investments and plan valuation. The SC is responsible for plan design so they determine benefit improvements, contribution rate adjustments and any change to the reserve to stabilize contribution rates. [26]

Alberta

MUPPs are multi-unit plans but they are not collectively bargained. In these plans a group of non-affiliated employers have come together to share administrative costs and pool investments. There are both DB and DC plans, although there tends to be more DC plans. In MUPPs, each employer remains liable to fund the benefits, and any deficits, related to his/her employees only. While the administrative costs are shared, the liabilities are not.
The Local Authorities Pension Plan (LAPP) is an example of a MUPP. The plan includes employees of health authorities, cities, towns, municipal districts, counties, colleges, school boards and many other public sector organizations. This plan is not subject to the Employment Pension Plans Act but instead runs under its own statute. The Alberta Minister of Finance is the legal trustee of the plan, however the Minister does not complete the day-to day tasks in operating the pension plan. A 14 member Local Authorities Pension Plan Board of Trustees has a number of statutory functions set out in the Public Sector Pension Plans Act. The Board includes employee and employer nominees, as well as one nominee from government and one nominee from retirees. The Alberta Local Authorities Pension Plan Corporation is delegated

[26] Ontario Municipal Employees Retirement System, online:
http://www.omers.com/home.htm

high level strategic guidance of the pension plan, and support of the Board of Trustees in its statutory duties. [27]

Quebec

Quebec has created the Simplified Pension Plan (SIPP). It was created to benefit small businesses so that they could offer a pension plan to their employees that is easy to administer and quite flexible.

The SIPP is a DC supplemental pension plan, offered and administered by a financial institution, in which several employers participate. The contributions are made by the employer and, if any, by the member and are divided into two accounts in each member's name: one account is locked-in and the other is not locked-in. The employer does not have to set up the SIPP or form a pension committee, and therefore, is an easy to set up as a G-RRSP. The employer decides the plan provisions such as:

- Conditions for membership and withdrawal;
- Payment or not of member contributions;
- Employer and member contribution rates;
- Locking-in or not of member contributions.

The employer assumes a minimum of administrative tasks. The financial institution administers the plan and provides the required information to the members and supervisory authorities. Employees take an active part in management of their retirement funds since they can decide how the contributions will be distributed among the various types of investments offered by the financial institution. Contributions, once made by the employer, belong to the members, and members can withdraw amounts from his or her not-locked in account at any time, unless an employer has decided that not locked-in contributions cannot be withdrawn before the end of the member's active membership in the plan. However, even in that case, members can still use the contributions for the following purposes:

- Transfer to an RRSP to take advantage of the Home Buyers Plan or the Lifelong Learning Plan;
- Transfer to a locked-in retirement savings instrument, as of age 55;
- Cash refund in the case of a disability that reduces life expectancy.[28]

New Brunswick

The Pension Benefits Act in NB doesn't differentiate between MEPPs and single employer plans with respect to solvency rules. Employers are responsible for any deficits that may result, as the Act does not allow for a reduction in benefits. As a result, even though a

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[27] Local Authorities Pension Plan, online:
http://www.lapp.ab.ca/
[28] Regie des Rentes du Quebec, online :
http://www.rrq.gouv.qc.ca/en/services/publications/rcr/brochure_rrs.htm

collective agreement may exist that sets out the level of contributions to be made by the employer and the employee, if a deficit arises, the employer has to design a plan for repayment of the deficit. Usually this takes the form of increased contributions by both the employer and the employees.

NB municipalities and rural communities have the option of adopting the New Brunswick Municipal Employees Pension Plan, which operates as a MEPP. This plan was established as the Uniform Contributory Pension Plan Regulation under the Municipalities Act. Under that Regulation, everyone within the plan has the same level of benefits. Contribution rates for members that are police officers or firefighters are higher than other members due to the fact that the normal retirement rates for these groups are 5 years earlier than the average age of 65.

Nova Scotia

In Nova Scotia, one example of a province wide plan is pension plan of the Nova Scotia Association of Health Organizations (NSAHO). The NSAHO plan is a DB plan that is administered by a Board of Trustees. While the Board is responsible for the overall operation of the plan, the day to day operations are the responsibility of the CEO, who reports directly to the Board. There are over 60 participating employers, such as health authorities (which include hospitals), nursing homes, and colleges of nurses. The NSAHO pension plan provides a common benefit plan to all of its members.[29]

[29] Nova Scotia Association of Health Organizations Pension Plan, online: http://www.nsahopensionplan.ca/index.aspx

Glossary

Contribution holiday – A period when contributions to a pension scheme are put on hold, the most common reason for this being a situation of overfunding.[30]

Defined Benefit plan – Plan under which the pension is determined by a formula, usually based on earnings and years of participation.[31]

Defined Contribution plan – Plan under which pension depends on the amount of contributions accumulated with investment income.[32]

Going –concern funding – Looks at the plan's funded status on the basis that the plan will continue to operate indefinitely.[33]

Grow-in benefit –The provision of enhanced early retirement benefits to pension plan members whose age and service totals at least 55 at the date of either a partial or full plan wind-up if the plan provided subsidized early retirement benefits. These members become entitled to early retirement rights that they otherwise would have grown-into had the pension plan continued.

Hybrid pension plan – A pension plan with elements of both a Defined Benefit and a Defined Contribution plans, and can take a variety of forms.

Solvency funding – tests whether a plan has sufficient assets to cover all the liabilities of the plan should it be wound up.

Sponsor – Establishes the pension plan and supports it financially.

Surplus – Occurs when the assets of a defined benefit pension plan exceed its liabilities.

Terminal funding – In Nova Scotia, a defined benefit pension plan must be fully funded when the plan is wound-up.

Vesting – The point at which an employee becomes entitled to a pension provided by employer contributions.[34]

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[30] OECD Working Party on Private Pensions, 2005, "'Private Pensions: OECD Classification and Glossary, 2005 edition", OECD, Paris

[31] Bruce Cohen and Brian Fitzgerald, *The Pension Puzzle: Your Complete Guide to Government Benefits*, *RRSPs and Employer Plans*, 3d ed. (Mississauga: John Wiley & Sons Canada, Ltd., 2007)

[32] Bruce Cohen and Brian Fitzgerald, *The Pension Puzzle: Your Complete Guide to Government Benefits*, *RRSPs and Employer Plans*, 3d ed. (Mississauga: John Wiley & Sons Canada, Ltd., 2007)

[33] Cameron Hunter, Tom Levy, Michael Mazzuca and H. Clare Pitcher, *Saved from Solvency Funding* (November 2007) Benefits Canada at 57, online: Benefits Canada http://www.benefitscanada.com/pension/db/article.jsp?content=20071129_141520_6144

[34] Bruce Cohen and Brian Fitzgerald, *The Pension Puzzle: Your Complete Guide to Government Benefits*, *RRSPs and Employer Plans*, 3d ed. (Mississauga: John Wiley & Sons Canada, Ltd., 2007)

Wind-up – Occurs when a pension plan is terminated and its assets are distributed to provide for the benefits accrued under the plan.