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Mr. Bill Black, Chair
Pension Review Panel
c/o Nova Scotia Labour and Workforce Development
Policy Division
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Response to the Draft Recommendations from the Nova Scotia Pension Panel

On behalf of the Halifax Regional Municipal Pension Committee, we thank the Pension Panel ("Panel") for the opportunity to comment on the proposed recommendation to the Nova Scotia Provincial Government ("Government") regarding the new pension legislation.

We concur with your recommendations regarding the elimination of funding grow-in benefits, the elimination of the concept of a partial wind-up, the elimination of the appeal process to the Superintendent of Pensions, and the elimination of the restrictive quantitative investment limits. We applaud the Panel for demonstrating leadership in the area of investments by recommending that a prudent person test substitute existing outdated investment rules.

Below, we have summarized our concerns regarding some of the Panel's other recommendations.

Overview of Concerns
We disagree with the Panel's statement that "the new proposed funding rules will use assumptions closer to those used for going concern valuations." This is not true. In the case of the HRM Pension Plan ("Plan"), the proposed new minimum funding standard results in more onerous funding requirements than the current going concern funding rules and solvency rules. This is because the 15-year amortization for going-concern funding has been effectively reduced to 8 years. In addition, the proposed elimination of the solvency relief regulation would result in increased contributions.

We note that the proposed new funding rule is a significant departure from Canadian actuarial practices. We are concerned that a new funding regime in Nova Scotia may be implemented without due consideration by the Canadian pension industry including the Canadian Institute of Actuaries ("CIA"). The Halifax Mercer office confirmed that the proposed new funding methodology has not been stress tested for different economic/interest rate environments. A significant departure from the industry's accepted actuarial practice requires detailed and careful

assessment. We would like to ensure that the Canadian pension industry and a national body such as the CIA analyze the new approach and stress test these assumptions based on different economic/interest rate environments. For example, many leading US political economic advisors are warning the public about the likelihood of 4-5 percent inflation in 2-3 years, a direct result of the massive government "bailout" of financial institutions. If this is the case, the current funding rules will not be a problem. The Panel's recommendations to eliminate solvency measures, while moving to more stringent going concern rules, would make the funding rules more challenging for plan sponsors. This is an example of an unintended negative consequence which would be most unfortunate for plan sponsors, particularly in the midst of a systemic financial crisis. Economic environments are cyclical. Pension plans are long term in nature. Plan sponsors who have a low probability of going bankrupt should be given flexibility to manage their affairs in many different economic environments. This will help meet the Panel's objective of maintaining existing defined benefit plans.

We are concerned that the proposed changes are not consistent with the Canadian Association of Pension Supervisory Authorities' (CAPSA) objective for harmonization of pension legislation. CAPSA is an inter-jurisdictional association of pension regulators whose goal is to simplify and harmonize pension regulatory requirements. On October 31, 2008, CAPSA published a final *Report on CAPSA's Work on Regulatory Principles for a Model Pension Law.* CAPSA states "the *Report* is intended to promote the harmonization of pension legislation across Canada over the long-term." We understand that the Federal Minister of Finance and the Provincial Finance Ministers will be meeting in December to discuss options to alleviate funding requirements in this challenging economic environment. We encourage the Panel and the Government to work collaboratively with the rest of Canada.

If a significant change to the funding rules is to be implemented, we question why there is no reasonable transition period provided. For example, the Panel provides a voluntary 5-year transition period for the elimination of funding grow-in benefits, but no transition period for the much more significant change to funding rules. We recommend that new funding rules, that have undergone rigorous industry debate, be implemented after an appropriate transition period has been provided. For example, if new funding rules that have been stress tested and have the support of the pension industry have negative consequences for municipalities, they should be implemented after the current solvency relief regulation for municipal pension plans expires. Municipalities have relied on current pension legislation for their long-term financial plans. The HRM Pension Committee has implemented a long-term investment strategy based on the 10-year solvency relief period granted in current pension legislation.

It appears that the Panel's objective is to limit flexibility for plan sponsors. This is disappointing. Why is the Panel proposing less flexibility for plan sponsors when Page 10 of the report states that the Government should provide for more flexibility? For example, why would the Panel not allow a plan sponsor to file an interim actuarial valuation report? The Panel's recommendation to file on fixed triennial dates, without an option to file more frequently, further exposes a plan sponsor to uncontrolled market volatility on a fixed future arbitrary date. It is prudent for CEO's of corporations to manage profit volatility. Similarly, it is prudent for plan sponsors to file an interim valuation when it makes sense. It is no different than purchasing insurance to protect the plan from unforeseen negative market volatility on a specific date in the

future. Is the Panel suggesting that it is not prudent to manage contribution volatility for plan members who have additional expenditures to worry about e.g. mortgage, children's education, etc? A second example of reduced flexibility is the need to fund deficits up to 100 percent, instead of the proposed 95 percent limit.

We also wonder why the recommendation continues to exempt the Government's pension plans from adhering to the new funding rules, which are stricter for public sector plans. If the Government had to adhere to either the current funding rules or the proposed funding rules, the Government would have to significantly increase contributions and/or reduce benefits. The Government recently announced that their pension plan for civil servants had a funded ratio of 79.7% as at March 31, 2008. This is a going-concern measure and does not include the cost of indexed benefits. On a solvency basis, its funded ratio would be approximately 55 percent. This inequity is a major concern for our members who do not understand the logic of continuing to exempt the Government's pension plan from proposed legislation that will make the environment more challenging for municipal employees and retirees throughout the province.

We believe the Canadian pension industry, in general, accepts the notion that public sector plan sponsors who have taxing authority should be exempt from funding solvency deficits. This should be applicable to municipal pension plans in Nova Scotia. However, if the Government decides to eliminate solvency rules, and replace the current going concern measure with a new proposed methodology, how can the Government justify its own exemption from the new rules?

Comments Regarding the Panel's Other Recommendations:

Province Wide Plan:
The concept of a province wide plan should be discussed further because it may lead to increased pension coverage. A strong governance structure of such a plan cannot be emphasized enough. For example, an independent agency would require an independent Board, preferably with directors who have professional expertise related to the management of pensions. We refer you to the governance structures of the Canada Pension Plan Investment Board and the Ontario Teachers Pension Plan. In comparison, the existing Pension Agency is not an independent agency since it does not have an independent Board. The CEO of the Pension Agency reports to the Minister of Finance. Since potential participating employers effectively waive rights for any control over the operation of the plan, including the costs to run the plan while potentially remaining responsible for funding risks, we wonder what would motivate employers to participate? As laid out, this is not a risk free option.

We note that municipal plans have been singled out for special consideration with the potential for having a special benefit and funding version. We seek clarity on this point.

We understand that the recommendation is to make the delivery of pension plans mandatory for employers of a certain size, unless they opt out. This proposal could be viewed as contrary to the existing "voluntary" approach to pensions. Pensions are part of a benefits package. Would the Government consider the same treatment for other components of benefit plans, for example, medical plans?

Funding:
We are concerned with the Panel's recommendation to eliminate the ability for plan sponsors to make amendments when a pension plan is in a deficit, even if the cost of the amendments is pre-paid. This would jeopardize the HRM Pension Committee's current efforts to fix a significant inequity in the Plan for current and future plan members.

Amortization:
We are interested in learning more about the rationale for choosing 8 years as opposed to 10 years or some alternate time frame for the proposed amortization period.

A 5 percent collar does not provide enough flexibility to pension plan sponsors. We seek clarity as to why only a 5 percent collar was chosen, as opposed to 10 percent, 15 percent or 20 percent?

We disagree with the Panel's statement that "it is widely accepted that there is a trade-off between wages and pension costs." If this was the case, accountants would accept that pension costs would not increase because wages would decrease. Malcolm Hamilton, Principal, Mercer Consulting, has argued that he has yet to find a pension accountant who will accept this line of thinking.

We also seek clarity about timing of the new rules. For example, if these rules are passed on January 1, 2009 and a plan sponsor has filed a January 1, 2007 actuarial valuation, will the proposed rules require an actuarial valuation to be submitted according to the new rules on January 1, 2010? Page 15 (d) provides an example of annual valuations being filed, which is inconsistent with the proposed requirement to file a valuation once every three years on fixed valuation dates.

We also wonder why the Panel did not comment on the numerous suggestions to provide additional funding flexibility to plan sponsors, for example, allowing plan sponsors to use letters of credit, contingency accounts, etc.

Surplus:
The proposed treatment of dealing with surplus should undergo rigorous analysis and debate within the Canadian pension industry.

Governance:
The proposals requiring the submission of a Governance Plan require a lot more development. In our view, the Superintendent of Pensions does not have the requisite background, resources or ability to effectively analyze and enforce Governance Plans. The Panel had stated that "we do not believe that the Superintendent of Pensions should be in the business of evaluating creditworthiness." Likewise, we do not believe that the Superintendent of Pensions should be in the business of evaluating good governance. The Superintendent of Pension's role is to ensure that pension plans are adhering to pension legislation.

The Panel states "The Superintendent shall be satisfied that the Governance Plan meets the generally accepted practice in the pension industry and may reject Governance Plans which fail to meet this test. Continued failure may result in the Superintendent taking action with respect to

the plan." We would be interested in knowing in advance, what the Superintendent of Pensions believes to be best practices and how is this going to be enforced. If this cannot be immediately enforced, we recommend that the Panel delay recommending the filing of Governance Plans to the Government for inclusion in pension legislation. This requires further analysis by the pension industry.

Advisory Committees:
We request clarity that jointly sponsored pension plans will not require Advisory Committees since the plan administrator already includes union and management representatives. We also request clarity around the need to "elect" employees. In a jointly-sponsored pension plan, employees may be elected or appointed. Single employer plans will be concerned with higher costs of running a pension plan and will have to deal with the consequences of any problems resulting from indirect communication by the Advisory Committee to employees. We are concerned that the Panel is requesting employers to step away from their rights and obligation to communicate directly to employees about their pension plans.

We disagree with the point made about making the process of approving amendments more efficient by having the involvement of an Advisory Committee. Amendments are approved or not based on adherence to pension legislation, not whether the Superintendent of Pensions thinks the amendments would be negative to employees, for example, benefit reductions. Current pension legislation requires that all amendments be communicated to plan members.

Role of the Regulator:
It is critical that all members of the Nova Scotia Labour Relations Board hearing appeals from plan sponsors, be knowledgeable about pension legislation. We refer you to the problems encountered in Ontario when they moved away from a Pension Tribunal to FSCO. It would be an embarrassment for the Nova Scotia Government to provide an appeal process with individuals who have limited knowledge of pension plans.

Safe Harbour:
Why are "safe harbour" rules "impractical and harmfully prescriptive"? This is not the US experience or the conclusion of other studies.

Access to Information:
We request clarification of the following statement: "The Advisory Committee or Trustees of a joint Employer-Employee Trusteed Plan must make all information available to the members." We are assuming that this statement is qualified by privacy legislation, as was mentioned earlier on in the report. The requirement to provide "all" information is an onerous requirement. Corporations are not required to provide all material to shareholders. To provide clarity with the intent, we suggest the following list of materials be provided to plan members:

Minutes:
Actuarial Report Filed with the Superintendent of Pensions
Governance Policies
Statement of Investment Policies and Procedures
Audited Financial Statements

This will achieve what we believe is intended and reduce any unnecessary commitments e.g. draft reports, work in progress, etc.

Respectfully submitted on behalf of the Halifax Regional Municipality Pension Plan,

Terri Troy, CEO
Halifax Regional Municipality (HRM) Pension Plan

Note: Common language appears in this submission and the submission from the Pension Investment Association of Canada (PIAC) because the CEO of the HRM Pension Plan was a member of the working group involved in PIAC's submission.