



Pension Investment
Association of Canada

Association canadienne des
gestionnaires de caisses de retraite

November 13, 2008

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

Dear Mr. Black,

On behalf of the Pension Investment Association of Canada, we thank the Pension Review Panel ("Panel") for the opportunity to comment on the proposed recommendations to the Nova Scotia Government regarding the new pension legislation.

PIAC has been the national voice for Canadian pension funds since 1977. Senior investment professionals employed by PIAC's member funds are responsible for the oversight and management of over \$940 billion in assets on behalf of millions of Canadians. PIAC's mission is to promote sound investment practices and good governance for the benefit of pension plan sponsors and beneficiaries.

We applaud the Panel for demonstrating leadership in the area of investments by recommending that a prudent person test substitute existing outdated investment rules.

We agree with your recommendations regarding the elimination of funding grow-in benefits, the elimination of the concept of a partial wind-up and the elimination of the appeal process to the Superintendent of Pensions.

It appears that the Panel is recommending a unique approach to funding and surplus ownership. In essence, the solvency rule is to be eliminated and the going concern measure is to use a blend of solvency and going concern assumptions, with an amortization of 8 years instead of 15 years. We recommend that the Panel consult with the Canadian Institute of Actuaries to ensure that the new proposed minimum funding

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standard meets the Standards of Practice and other requirements of the Canadian Institute of Actuaries, and that the proposed new funding rules are stress tested. A significant departure from the industry's accepted actuarial practice requires detailed and careful assessment before a change is made that may have significant negative consequences for pension plans. We recommend that new funding rules, that have undergone rigorous industry debate and testing, be implemented after an appropriate transition period has been provided. Similarly, the proposed treatment of dealing with surplus should undergo rigorous analysis and debate within the Canadian pension industry. In the meantime public sector plans, which have a low probability of default, should be exempt from funding solvency deficits.

The rest of our comments are categorized below:

Pension Harmonization

The proposed changes are not consistent with CAPSA's objective for harmonization of pension legislation.

Reduced Flexibility

- Plan sponsors will no longer be able 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.
- The Panel did not comment on the numerous suggestions made in many of the submissions received to provide additional funding flexibility to plan sponsors, for example, allowing plan sponsors to use letters of credit, contingency accounts, etc.

Unfair Treatment

The Province continues to exempt its own pension plan from pension regulation when the proposed pension legislation is aimed at treating all pension plans in the same manner.

Timing of Proposed New Rules

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?

Province Wide Plan

The concept of a province wide plan should be discussed further because it may lead to increased pension coverage. The need for a strong governance structure for 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

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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 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.

Trade-off Between Wages and Pension Costs

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.

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. We recommend that the Panel delay recommending the filing of Governance Plans to the Government for inclusion in pension legislation. This matter requires further analysis and discussion with 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 plan.

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 based on adherence to pension legislation, not whether the Superintendent of Pensions thinks the amendments would be negative to employees, for example, benefit

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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.

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.

Respectfully submitted,



Roger Robineau
Chair