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Diane Lafleur
Financial Sector Policy Branch
Department of Finance
L'Esplanade Laurier
20th Floor, East Tower
140 O'Connor Street
Ottawa, Ontario
K1A 0G5

Dear Ms. Lafleur:

**Re: Strengthening the Legislative and Regulatory Framework for Private Pension Plans
Subject to the Pension Benefits Standards Act, 1985**

Thank you for the opportunity to provide input on the Consultation Paper regarding potential changes to the Pension Benefits Standards Act..

Gordon B. Lang & Associates Inc. is a full service actuarial and consulting firm specializing in providing small and medium-sized corporations with benefits that respond to the needs of their employees. We manage over 1,000 pension plans across the country; most of which meet the definition of a designated plan as per Section 8515 of the Income Tax Act.

We strongly believe that our products address an increasing need among small business owners for retirement security and are concerned that the existing Pension Standards Act severely limits the accessibility to such products.

With regards to the Consultation Paper, I will limit comments to two of the identified policy issues; namely Pension Plan Funding, Financial Statements and Investment Rules.

3 Issues for Discussion Pertaining to Defined Benefit Plans, A Solvency Measurement and Funding Rules

It is our position that designated plans as defined under subsection 8515(1) of the *Income Tax Regulations (ITR)* should be fully exempt from the requirement of funding on a solvency basis. Although subsection 8516(3) of the *ITR* identifies contributions required by Pension Benefits Legislation as prescribed, and thus eligible, contributions to designated plans are specifically excluded. Therefore, contributions to plans that have

less than 10 active members, where the members are highly paid, are not permissible under the *Income Tax Act* putting the plan in a revocable position should they be required by the PBSA.

This legislative conflict between the PBSA and tax statutes serves as a major deterrent for business owners to implement pension plans for their key employees of federally regulated employers. Several provincial jurisdictions have recognized this and have exempted such plans from certain, or all, of their requirements. Since designated plans are often implemented in situations where the business owner is also the plan member or where the sole member is a senior executive, the role of the regulator is much less significant in these cases. Also such plans should be available for individuals rather than classes of members.

Further to the above comments, we feel that full funding at wind-up for designated plans should not be required as it runs counter to the creation of new defined benefit pension plans and the protection of the sustainability and security of benefits under existing defined benefit plans. The implementation of a pension plan is a voluntary undertaking on behalf of the plan sponsor and, while it is important to provide benefit security to the plan members, the requirement for full funding of the solvency deficiency on plan wind-up is, in our opinion, a significant detriment to the future health of the defined benefit pension plans for small businesses who are federally regulated employers..

We feel strongly that plans with less than ten members should be exempt from PBSA regulation altogether. The majority of these plans fall into the ‘designated plans’ category under the *Income Tax Act* and are implemented for either connected members or highly paid non-connected employees. The deficits in these plans have typically been funded by means of lump sum payments rather than amortization payments over a specified time period. With these types of plans, either the business owner or a key employee is the plan member, and thus the benefit security concerns that exist for broad-based plans, are not applicable in these cases.

This exemption, if provided to designated plans, will have no negative impact on the funding requirements for broad based plans and will likely have a positive influence on the defined benefit coverage for other federally regulated employers. This will also allow the regulator to concentrate their oversight on the types of arrangements where benefit security and solvency funding is not as well assured, thus enhancing their regulatory role in the supervision of other defined benefit pension plans.

In addition, such Plans should not be subject to the requirement of Financial Statements in accordance with the CICA Handbook. Such requirements make these Plans uneconomical to operate. At the minimum, CICA Handbook Statements should only apply to Plans with assets in excess of \$3 Million.

E Investment Rules

Schedule III Investment Rules should be revoked and replaced by a more principles based “prudent portfolio” approach.

Other Items

In addition, the Income Tax Act (Canada) requires to be updated as far as the Regulation 8517 Prescribed Amounts, discrimination against smaller pension plans as far as RRSP Qualifying Transfers and downsizing rules. In addition overall pension limits in Canada are significantly lower than many of our trading partners and must be increased substantially. In addition Status Natives should be permitted access to Defined Benefit Pension plans with respect to their Box 75 non-pensionable income. This could be accomplished through an extension of the Tax-Free Savings Account (TFSA) arrangement to Box 75 Defined Benefits.

We would be pleased to provide additional clarification on the above points, if required, and anticipate positive changes to the PBSA as a result of this consultation process.

Respectfully submitted,

Gordon B. Lang, FFA, FCIA, FCA
Gordon B. Lang & Associates