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Attention: Diane Lafleur
Financial Sector Policy Branch, Department of Finance
via e-mail: pensions@fin.gc.ca

Re: Discussion Paper on Private Pension Standards, January 9, 2009

Imperial Oil welcomes the opportunity to respond to the discussion paper on pension standards applicable to private plans under federal jurisdiction. In addition to the comments offered below, you may wish to refer to separate submissions we have made to the Ontario, Nova Scotia and BC/Alberta pension reform consultations.

Background

Imperial Oil operates four DB pension plans in Canada - one for itself and three on behalf of affiliated companies that are wholly-owned subsidiaries of Exxon Mobil Corporation. These plans cover a total of over 7000 active employees and 12,000 annuitants and pension survivors. Two of these plans are registered in Ontario, one in Alberta and one in New Brunswick, and all but one of them have members in more than one jurisdiction. We also operate three DC arrangements for the ExxonMobil affiliates, although these are now closed to new members, and savings plans for all four companies, which include a group RRSP component. The Imperial Oil DB pension plan has been operating on an uninterrupted basis since its inception 90 years ago. As a consequence we try to take the 'long view' in matters of pension regulation, and would encourage the government to make a clear distinction between the desired ongoing regulatory framework and whatever temporary measures may be deemed appropriate in the current economic climate.

Although we have relatively few members under federal jurisdiction, and our plans are all registered provincially, we have an interest in the current federal pension reform consultation from the standpoint of precedent and alignment across jurisdictions. Imperial is one of the very few private sector corporations that decided to maintain a significant DB component in our benefits program over the past two decades. This conclusion was reached because our management believes this type of pension best meets the needs of both employees and the company within our 'career employment offer' and workforce planning model. However in all candor, this position has been taken in spite of a national regulatory climate that has been perceived as fractured and quite burdensome, particularly for a multi-jurisdictional plan sponsor.

In this regard we were most heartened to see the Alberta and British Columbia governments working together on their pension reform consultation, with a view to harmonizing standards and developing joint regulatory and advisory bodies. And we noted a number of areas of convergence or consensus between the Alberta / BC JEPPS report and the reports resulting from the parallel Nova Scotia and Ontario initiatives. After two decades of relative inaction during which pension coverage was seriously eroded for Canadians, there appears to be a historic opportunity to pursue needed reforms and greater harmonization at the same time. We strongly encourage the federal government to work with provincial stakeholders as reforms are enacted, rather than 'going it alone'. Every opportunity should be taken to pursue further harmonization with other jurisdictions.

General

Specific comments are offered below on selected sections of the discussion paper. However as a general proposition following from the above point, we encourage the federal government to integrate the feedback it receives from the discussion paper with the recently – published reports from the NS, Ontario and AB/BC consultations before proceeding. The issues raised in the federal paper appear to be a narrower subset of the issues addressed in these provincial reports, which in turn are based on consultations that had a long ‘head start’ and benefitted from numerous stakeholder submissions and research efforts. We are concerned that the limited number of topics in the federal discussion paper may imply an interest in making adjustments only to selected line-items of the PBSA, rather than undertaking the type of sweeping and comprehensive reforms that we believe are needed at this time. Frankly, in our view the best approach the federal government could take would be to follow the recommendations in the Alberta / BS JEPPS report as a total package, in collaboration with those provinces and any other interested jurisdictions. Although we do not agree with everything in the JEPPS report, in our view it offers the most complete and best – balanced recipe for maintaining or growing pension coverage (including new design types), while ensuring that the ‘pension promise’ is kept. Among other things, the JEPPS report proposes a practical and fair way out of the ‘asymmetry’ morass, a key issue which the federal discussion paper does not adequately address.

Additional Comments on Selected Specific Items

General public policy & plan governance issues

1. We support the notion that the PBSA should allow greater flexibility in plan designs, expanding from the current DB vs. DC dichotomy to include specified-contribution / target-benefit plans, adjustable contribution / benefit plans, or other emerging types. Obviously the statute and any regulations made under it need to make the appropriate distinctions so that requirements intended to apply to only one or two design types are not inadvertently projected onto other types.
2. We support other updates to the PBSA to fully modernize it, such as explicitly allowing for disclosure to plan members by electronic means. (In our view this requirement should be expanded to permit electronic disclosure at plan sponsor discretion without requiring member election, except for certain ‘core disclosure’ documents such as statements of entitlement at time of retirement or termination of employment.)
3. We do not support expanding the categories of member or former member to whom certain types of ongoing disclosure would have to be made, e.g. deferred annuitants. This type of requirement results in a large amount of busy-work, which is quite burdensome to the plan sponsor and yet of relatively little value to the member. In our experience, persons with an interest in our plan have had little difficulty in contacting us and obtaining answers to any questions or concerns they may have, without the need for prescriptive regulation.

DB funding issues

4. We strongly support a relaxation of the Income Tax Act requirement that generally forces a contribution holiday to occur once the solvency ratio of a plan exceeds 110%. This constraint has been highlighted by all the provincial consultations as an impediment to the prudent governance of DB plans. If this limit is left intact, it will get in the way of some of the proposals from the provincial consultations that suggest a solvency funding cushion above 100% before contribution holidays could be considered.

5. We support the government's announced intention to increase the amortization period for solvency deficiencies to 10 years.
6. Letters of credit should be allowed as an optional means of funding solvency deficiencies. Current solvency funding rules effectively ignore the fact that, in some cases, the financial strength of the plan sponsor is such that the funded status of the pension plan at any given point in time is virtually irrelevant to member benefit security. See next point.
7. We strongly oppose the suggestion that the "void amendment" provision in the PBSA be triggered if the solvency ratio of a plan is below 85%, just as we oppose any prescriptive measure that arbitrarily precludes the possibility of making an improvement in an 'under-funded' plan, without taking into account the financial strength of the plan sponsor. If the Imperial Oil plan were federally registered, this suggestion from the discussion paper would apparently disallow us from making a plan improvement or an ad hoc adjustment to pensions in pay, even though, as the only industrial company in the country with an AAA credit rating, we could comfortably handle any increased funding requirements arising from both the improvement itself and from the general deterioration in the solvency funding ratio as a result of recent market conditions. We note that the Nova Scotia pension review panel has proposed that enhancements to under-funded plans be allowed if the sponsor pre-pays for the improvement. We suggest the additional option of securing the incremental funding requirements associated with an enhancement by means of a letter of credit.
8. We do not understand why the superintendent should be given authority to over-ride CIA professional standards, in the calculation of commuted values or otherwise. Professional actuarial standards should only be interfered with for compelling public policy reasons, and such interventions should be an exception to a generally permissive regulatory regime that allows actuarial practice to evolve. We support the JEPPS report's formulation: "principles where possible, rules where necessary."
9. We would like to express our disappointment that although the discussion paper acknowledges the 'asymmetry' issue, it does not appear to be particularly interested in resolving it. We believe that this issue has been a major contributor to the decline of DB pension coverage in this country, and has contributed to the underfunded status of some plans apart from the effect of market conditions. The results of that decline will have a long-lasting and mostly negative impact on both the affected workers and the Canadian taxpayer in general. We recognize that there are some formidable political obstacles that have stood in the way of resolving this issue, but we believe that it can and should be resolved, and do not share the apparent view of the Ontario OECF report that single-employer DB plans are inherently unsustainable. The Alberta/BC JEPPS report is the best template we have seen to date for fixing the DB asymmetry problem in a way that is reasonable and fair to the various stakeholders. If the federal government were to support this approach, there could well be additional receptiveness on the part of provinces other than Alberta and BC, and the preconditions for a national solution would be in place. We strongly encourage the government to take this step.

Investment issues

10. We take no exception to "safe harbor" legislation for DC plan sponsors, but note that both the AB/BC and NS pension reform reports are proposing alternative - and possibly better - means for protecting DC plan sponsors from inappropriate litigation. Regardless of the exact vehicle used, we do support regulatory protection for auto-enrollment, auto-escalation and for reasonable default investment options other than money market accounts.

11. We believe that for DB plan investment matters, the general regulatory framework could be improved by reducing or eliminating prescriptive quantitative limits (other than related party provisions), in favour of a more principle – based approach such as some type of ‘prudent expert’ standard. See AB/BC JEPPS report.

Entitlement issues

12. The concept of partial termination should be eliminated entirely from the PBSA, or at the very least, should be amended, as the discussion paper suggests, to clarify that surplus does not need to be distributed in a partial termination. The federal government should strenuously avoid anything like the concept of a partial plan windup as it currently exists in the Ontario and Nova Scotia legislation. In our view this is a seriously flawed design that produces inequitable results and unnecessary disputes involving sponsors, members and the regulator. Provisions of this type are every bit as serious a disincentive to the establishment or continuance of a DB plan as the asymmetry issue. We note that the pension reform consultations in both ON and NS are proposing to repeal or significantly modify these provisions.
13. We do not support immediate vesting as it produces a great deal of administrative effort for early terminations involving relatively small pension values. However, if immediate vesting is viewed as the *sine qua non* for eliminating the partial termination concept, we can live with this outcome. Any such change should be accompanied by a provision which provides plan sponsors with discretion to settle small obligations for early terminations with a cash commuted value only, avoiding the onerous need to offer / administer other options.

Conclusion

Thank you for the opportunity to provide input in this important initiative. We encourage the federal government to pursue appropriate reforms that are determined as a result of this consultation expeditiously. Pension coverage generally, and DB coverage in particular, has already been eroded for too long, and this trend needs to be reversed as a priority objective of 'long view' public policy development, despite the current focus on the state of the economy and markets.

Sincerely,

Ken M. Smith - Manager, Pension, Savings & Benefit Plans
Imperial Oil Limited and Exxon Mobil affiliates in Canada