



March 13, 2009

Mr. Ted Menzies, Member of Parliament for Macleod and  
Parliamentary Secretary to the Minister of Finance.  
Parliamentary Office  
Room 256, Confederation Building  
House of Commons  
Ottawa, ON  
K1A 0A6

Via email: [pensions@fin.gc.ca](mailto:pensions@fin.gc.ca)

Re: Consultation on the legislative and regulatory framework for private pension plans subject to the *Pension Benefits Standards Act, 1985*.

Financial Executives International Canada (FEI Canada), and its Pension Task Force, is pleased to submit recommendations regarding the strengthening of the legislative and regulatory framework for private pension plans subject to the Pension Benefits Standards Act, 1985 (PBSA).

As an organization representing more than 2,000 senior Canadian financial executives, FEI Canada's members typically hold senior positions at medium-to-large corporations and in public sector organizations. FEI Canada has been consulting on pension matters since the 1970's, at which time we initiated a series of pension plan surveys, the first of their kind in Canada. Since then the association has sponsored several pension papers. These include Canada at the Pension Crossroads (1978) and Business Committee on Pension Policy Papers (1983). FEI Canada submitted a brief to and appeared before the Expert Commission on Pensions in October 2007 and has participated in subsequent stakeholder discussions.

FEI Canada applauds the government's initiative to evaluate and consider much needed changes in private pension regulation. Several Canadian employers have been sponsors of Defined Benefit (DB) pension plans for decades, most of which were created prior to 1967 when the PBSA was first enacted. Employers also actively participated in the discussion preceding the adoption of PBSA-85 and the introduction of solvency funding rules. Throughout the years, their DB plans have delivered billions of dollars in pension benefits to hundreds of thousands of Canadians. These Canadian companies are proud of this record and most certainly want to maintain it.



DB pension plans have played a significant role in the Canadian retirement income system and today their very survival is severely threatened. Our proposals are aimed at addressing what we believe is the single most urgent issue, namely solvency funding rules. Our recommendations have been designed to present the Government of Canada with an equitable and balanced solution that will benefit both sponsors and plan participants.

FEI Canada supports the stated objectives of this consultation. At the core of our recommendations is to ensure that active pension plan members, pensioners, and beneficiaries continue to enjoy competitive and secure pension benefits supported by strong and well-capitalized sponsors. The goal of Canadian employers' is to manage the billions of dollars invested in their DB pension plans to properly secure and fund pension benefits. The federal government and the Office of the Superintendent of Financial Institutions (OSFI) have repeatedly demonstrated that the PBSA can be improved, administered and adapted to changing circumstances. Nonetheless, the steady decline in private sector DB plan membership as well as the increased and very significant burden that DB plans put on their sponsors clearly demonstrates that there is an urgent need for a major review.

FEI Canada recognizes the security that DB plan benefits provide to Canadians, and contends that the best security for plan members is a growing and productive economy along with a financially strong plan sponsor. That said, it is our contention that current solvency funding rules unnecessarily and punitively drive substantial capital away from productive investment opportunities, within our Canadian employers' businesses. This results in an adverse impact on current and future employment prospects and weakens the financial and competitive strength of Canadian corporations.

The world has changed significantly since solvency funding rules were introduced in 1987. Members of Canadian pension plans are older, while the business world and financial markets are moving towards globalization supported by the speed of information availability. Canadian companies now find themselves competing across borders daily and in particular with US companies. Clients, employees, shareholders and indeed the communities in which they operate all require that Canadian companies be more competitive. Current pension laws and regulations severely and negatively impact that competitiveness. These factors, combined with financial markets whose extreme volatility was demonstrated by their recent rapid collapse, have made the current solvency funding rules far too onerous on sponsors and have undermined their competitiveness and productivity. Without meaningful changes, their commitment to maintaining their DB pension plans will be severely challenged.



We support the need for a balanced approach between an acceptable degree of funding flexibility for sponsors and transparency and reasonable benefit protection for plan members. Such balance must be achieved globally as it cannot be achieved in all circumstances for specific points. For this reason, FEI Canada believes that our recommendations must be assessed in their entirety. These recommendations, which are focused on items related to common issues pertaining to most DB plans, include an unrestricted amortization of solvency deficits up to fifteen years, coupled with an obligation to file an actuarial valuation annually, and restrictions on contribution holidays. Furthermore, while we support full funding on voluntary plan termination as well as increased vesting and disclosure, Canadian employers need added flexibility in the calculation of solvency deficits. This proposal includes flexibility on the asset side with unrestrained smoothing of assets up to five years and flexibility on the liability side with a continued recognition that benefits upon plan wind-up can be settled in different ways and not necessarily through the purchase of annuities.

### **Solvency Measurement and Funding Rules**

The most important priority for companies is to increase the funding period for all current and future solvency deficits to the lesser of the remaining active service life and the long-term funding period of fifteen years. To be meaningful, this amortization right should not be conditional: i.e., no member consent requirement and no letter of credit required, as was suggested in the recently announced temporary relief measures. This measure will help reduce volatility; particularly given the current and unprecedented economic environment they all operate in.

We have, in the past, expressed concerns with respect to the conservative nature of the discount rates used to calculate solvency liabilities for both active and retired members. We have been working with the Canadian Institute of Actuaries (CIA) to address these concerns. We are encouraged by recent developments, namely the CIA's new commuted value standard and the recognition by the CIA, with OSFI's concurrence, that large and/or indexed pension plans cannot immediately settle their obligations by purchasing annuities. Given this recognition by the CIA and OSFI, it is important for the government to take leadership in prescribing a discount rate for solvency liabilities that is better aligned with the market place. We recommend the government introduce a regulation to prescribe the discount rate to be based on AA corporate bonds index. In the meantime, it is imperative that OSFI continue to exercise its judgment and discretion, based on the recently adopted CIA standards, especially for large and/or indexed plans.

We believe much progress has been recently accomplished in the area of determination of solvency deficits, well within the bounds of PBSA. Indeed, OSFI has allowed the use of smoothing for asset values, a practice reinforced by the



government in its most recent budget speech. We strongly encourage the government to continue providing OSFI with the necessary discretion to address this issue through public policy. Indeed, OSFI should be encouraged to review methods used in asset valuations based on their merits and allow asset values to exceed 110% of market value when circumstances warrant, as we believe they will do for December 31, 2008 solvency valuations. Asset smoothing, combined with annual valuations, will be self-correcting without the need for complicated and unwieldy legislative and statutory mechanisms.

FEI Canada recommends that plan sponsors be allowed to utilize letters of credit (LCs) in lieu of any solvency contribution requirement, with an ability to release these LCs when a plan is more than 100% funded at some later date. In our opinion, this is the least controversial and simplest way of dealing with the current asymmetry between funding deficits and funding surpluses under PBSA. Allowing the use of LCs would make it unnecessary to address such issues, due to the right of plan sponsors to withdraw surplus, codify contribution holiday rights or create special solvency accounts.

A remaining problematic area is the calculation of solvency liabilities for indexed plans. This is a major concern to all plan sponsors that offer such a generous benefit. We believe the best way to address the untenable situation faced by indexed pension plans is to exclude indexing from the calculation of solvency liabilities and funding requirements. Instead, the indexed benefit would be funded as it currently is through the going concern funding valuation. Under accepted actuarial standards, the value of indexing would still be included in the hypothetical "wind-up liabilities" and reported to readers of an actuarial valuation report, but the sponsor and the actuary would have the option of excluding the value of indexing from "solvency liabilities", and hence from the calculation of minimum special payments. This would also encourage the continuation of automatic pension indexing before this feature disappears altogether from private sector pension plans. We further note that in Ontario and Nova Scotia, plan sponsors have the option of excluding indexing from solvency contributions.

### **Other Considerations**

The government has asked for comments on a number of other issues with which we generally agree, provided the above proposals on solvency measurement and funding rules are also included in the proposed changes to PBSA. In particular, FEI Canada agrees that plan sponsors be required to fully fund pension benefits when a plan is voluntarily fully terminated, provided that payments can be made over a period of five years and that any outstanding obligation is treated as an unsecured debt. If employers are able to negotiate other funding arrangements with their members, the funding period should not exceed ten years.



On a plan wind-up, sponsors and members should own the surpluses and deficits proportionately to their respective contributions.

We support an increase in the current 10% maximum surplus under the Income Tax Act, to permit employers contributions even when the surplus in their pension plan exceeds that threshold.

FEI Canada believes the foregoing measures will significantly enhance the security of pension benefits and balance the suggested solvency measurement and funding rules. We favour the foregoing approach to the creation of a Provision for Adverse Deviation (PfAD). In fact, FEI Canada is strongly opposed to a PfAD as it does not adequately recognize the particular demographics of various DB plans, notably the balance between the liability of active members and retired members.

In order to further enhance benefit security and allow plan members to have a better and full understanding of the measures taken to secure their pension, FEI Canada supports changes to PBSA that would:

- Expand the categories of members required to receive plan information to include former members and retirees where appropriate. For practical reasons, plan sponsors should be allowed to provide such information every three years rather than annually.
- Require sponsors to establish a Statement of Funding Policy (SFP) in a similar fashion to Statement of Investment Policies and Procedures (SIP&P). These would be made available for review upon request. Content should, however, be limited to funding guidelines including the sponsor policy regarding contribution holidays without having to go into details or include policies for managing funding risks.
- Allow all required disclosure to be disseminated electronically.



## Conclusion

FEI Canada is pleased to have had the opportunity to provide our recommendations to the government and we look forward to continuing to work with the government in support of strengthening the legislative and regulatory private pension environment in Canada.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Conway'.

**Michael Conway, CA, ICD.D**  
Chief Executive and National President

A handwritten signature in black ink, appearing to read 'William Hewitt'.

**William Hewitt**  
Chair, Issues & Policy Advisory Committee

A handwritten signature in black ink, appearing to read 'Peter Donovan'.

**Peter Donovan**  
Chair, Pensions Task Force

cc: Diane Lafleur, Financial Sector Policy Branch, Department of Finance