



Submitted by the National Council of CN Pensioners Associations Inc.

INTRODUCTION

This submission to the Department of Finance is being made by the National Council of CN Pensioners Associations Inc Chartered in February 1974.

We consent to this submission being posted on the Department of Finance web site and to a copy of this submission being forwarded to OSFI if required.

Over the past several years rule changes have been put in place to protect pension plans. Several temporary fixes have been put in place but have faltered. Companies, employees and retirees with private pension plans therefore must be protected by new updated rules or laws. We like many other pensioners believe that immediate action is needed by the Federal Government to put permanent solvency deficit funding rules in place to deal with solvency problems that have only been dealt with on a temporary or exception basis in the past.

We believe that the best security for any plan is a financially strong plan sponsor however history has not proven this to be a fact. Several financially strong sponsors in the past have failed to keep their obligations to their pension plans creating today's funding problems. The security of a company pension plan rests with the continued viability of a company therefore we support funding flexibility to plan sponsors when required. We believe the discussion on the potential tradeoffs between enhancing safeguards for plan members' benefits and the necessity of allowing more funding flexibility to plan sponsors could be beneficial to both parties.

While the business world and financial markets have been changing rapidly our pension plan buying power has been declining. We urge you to keep this fact in mind as one of the more important issues that must be considered as changes are made to update outdated rules and regulations now in place. Minimum standards for federally registered Defined Benefit Pension Plans must ensure that the rights and interests of pension plan members, retirees and their beneficiaries are protected.

SPECIFIC ELEMENTS CONCERNING SOLVENCY MEASUREMENT

We support our plan sponsors requests for changes to how the solvency liabilities are determined to the following three elements: 1) Discount rate 2) Asset smoothing 3) Indexed plans.

We believe that the solvency /amortization period could be increased from five years to ten years for all current and future solvency deficiencies **with the consent of plan members.**

We believe that every plan should have member consent in an area as sensitive as pension benefit security in place and if not it should be implemented into their plan should new rules put in place through this consultation paper. In many cases employees and retiree's have been instrumental in making changes to individual pension plans and that right should be enshrined in the proposed updated rules governing pension plans.

PARTIAL PLAN TERMINATION

We support the elimination of the concept of partial plan termination from the present laws. As well many employees move on within one year of employment and to fully vest them within one year of employment could prove more costly than advantageous.

We support the requirement for plan sponsors to fully fund any deficit on plan termination (with such funding either, at plan sponsor discretion, made in a lump sum or amortized over a period of up to five years). **We believe that it is imperative that the outstanding obligation be treated as secured debt of the sponsor and rank ahead of any of the sponsor's other unsecured debt.**

We would support provisions that would allow a plan to be terminated in an underfunded position by virtue of an agreement between the sponsor and the plan members. With respect to member consent thresholds, the member consent provisions contained in the 2006 temporary solvency funding relief regulation adopted the Government could be used.

A BALANCED APPROACH IS NEEDED TO MAKE A NEW LEGISLATIVE AND REGULATORY FRAMEWOK WORK

We support a requirement that plan sponsors must file actuarial valuation reports annually along with solvency rates with OSFI, irrespective of the plan's funded status. Removing the ability for a plan sponsor to continue to take a contribution holiday for another year or two as if the plan still has a surplus, when in fact the markets may have dramatically deteriorated, will have a material beneficial impact on benefit security once the markets recover and surpluses return. We believe that plan sponsors should be required to develop a formal policy with respect to their approach to contribution holidays if they plan to implement them and disclose this policy to its plan members. Our plan sponsor has been fairly transparent with us for many years now and has filed a valuation report with the Office of the Superintendent of Financial Institutions each year though not required to making it evident to us as to where our plan stands at almost any moment in time. We find that this has been a plus for our pensioners. Thus, we strongly approve the above paragraph.

We agree with Section 10.1 (2) of the Act which voids any plan amendment that would have the effect of reducing pension benefits accrued before the date of the amendment, or if the solvency ratio of the pension plan would fall below a prescribed solvency ratio level set out in the regulations. The latter provision, which was added to the Act in 1998, aimed at preventing significantly underfunded plans from implementing

amendments if they would further reduce the plan's funded position. However, regulations have not been made to set out a prescribed solvency ratio level. We support a prohibition on plan improvements if a plan is less than 85% funded on a solvency basis (or if the improvement would result in the funded status dropping below this 85% threshold).

We support an increase in the current Canada Revenue Agency “excess Surplus limit on employer contributions above its current 10% surplus threshold to 25% thereby giving employers the option to pre-fund cyclical market downturns. This should be implemented immediately.

We support the policy intent of the government to allow employers and employees to come to their own agreements on pension matters, so long as these agreements conform to minimum standards for funding, investment, membership eligibility, vesting, locking-in, portability of benefits, death benefits and members' rights to information. However, the Pension Benefits Standards Act 1985 must be updated to reflect consistent new basic consistent minimum standards for all plans to follow.

SURPLUS OWNERSHIP MUST BE SPLIT FAIRLY

We along with other pensioner groups have always believed that plan sponsors have never been and are not entitled to clear entitlement and access to surplus assets. Our pension plan benefits are definitely “deferred compensation” in every sense of the word as we have all accepted lower paying contracts during our working years in exchange for this plan as well as paying a percentage of our salary into the plan most of our work life. We assure you that any attempt to implement a law giving sponsors ownership of the surplus would send a surge of “unrest” across the country.

HYBRID PENSION PLANS

We object to any rule giving a Sponsor the right to use a Defined Benefit surplus to offset a Defined Contribution service cost in any hybrid plans. Although the confusing term “hybrid plan” is used, they are in reality two separate types of pension plan with different rules and benefits and should therefore be treated as two different pension plans being run by the same sponsor. Should any surplus appear it would be in the Defined Benefit Plan and it must be utilized by that same plan.

IN CONCLUSION

- 1) We like many other pensioners believe that immediate action is needed by the Federal Government to put permanent solvency deficit funding rules in place to deal with solvency problems that have only been dealt with on a temporary or exception basis in the past.
- 2) Minimum standards for federally registered Defined Benefit Pension Plans must ensure that the rights and interests of pension plan members, retirees and their beneficiaries are protected even though times are changing and Defined Contribution Pension Plans are favoured by sponsors.

- 3) We believe that the solvency /amortization period could be increased from five years to ten years for all current and future solvency deficiencies with the consent of plan members.
- 4) We believe that the continual cycle of temporary relief measures must cease and any changes put in place by your Government should be implemented immediately without delay.
- 5) We believe that it is imperative that the outstanding obligation be treated as secured debt of the sponsor and rank ahead of any of the sponsor's other unsecured debt.
- 6) We support a requirement that plan sponsors must file actuarial valuation reports annually along with solvency rates with OSFI, irrespective of the plan's funded status.
- 7) We support a prohibition on plan improvements if a plan is less than 85% funded on a solvency basis (or if the improvement would result in the funded status dropping below this 85% threshold).
- 8) We support the requirement for plan sponsors to fully fund any deficit on plan termination (with such funding either, at plan sponsor discretion, made in a lump sum or amortized over a period of up to five years).
- 9) We along with other pensioner groups have always believed that plan sponsors have never been and are not entitled to clear entitlement and access to surplus assets.
- 10) We object strongly to any rule giving a sponsor the right to use a Defined Benefit surplus to offset a Defined Contribution service cost in any hybrid plans.
- 11) We believe that in many cases employees and retiree's have been instrumental in making changes to individual pension plans and that right should be enshrined in the proposed updated rules governing pension plans.