

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

**Marine Atlantic Submission to the Department of Finance -  
Financial Sector Division**

Marine Atlantic Inc. welcomes this opportunity to provide comments on the consultation paper issued in January 2009.

While Marine Atlantic appreciates the temporary funding relief measures brought forward by the Solvency Funding Relief Regulations in 2006 in response to the 2005 consultation, as well as the additional temporary measures announced in the 2008 Economic and Fiscal Statement and 2009 federal budget, we believe that the timing is right to consider permanent changes to the legislative and regulatory framework for pension plans.

Our comments will focus on single employer defined benefit pension plans.

**A. Solvency measurement and funding rules**

Marine Atlantic Inc. is a Crown Corporation providing services that are constitutionally required.

Nevertheless, Marine Atlantic is required to fund its pension plan on the solvency basis and is concerned that the high levels of solvency funding required may produce significant going-concern surpluses in the future. Under the existing regime, such going-concern surpluses will lead to pressures from plan members for plan improvements, which will translate into additional risk being borne by the plan sponsor.

Also, the requirement for annual solvency valuations creates extreme volatility in required employer contributions, which puts pressure on our budgeting process which is highly regulated. This pressure is compounded by the retroactive application of increased contributions to the valuation date.

Marine Atlantic has availed itself of the letter of credit option under the Solvency Funding Relief Regulations but we have found the impact of this measure to be quite limited, and challenging to implement in light of necessary government approvals.

We therefore submit the following comments.

1. We believe that as a Crown Corporation, Marine Atlantic could be exempted from having to fund the pension plan in accordance with a solvency valuation. The going-concern valuation is a better representation of the financial position of the plan, in light of the remote possibility that the pension plan will be totally terminated. We would find it acceptable however to continue to perform the solvency valuations and disclose the results.
2. In the event that the solvency valuation continues to be required, we support the recognition of letters of credit or other letters of guarantee as pension assets in the solvency valuation. Such letters of credit or letters of guarantee should meet prescribed requirements and if used, could cover the special payments that would be required to amortize solvency deficits in excess of going-concern deficits, and not just the differential between 5-year and 10-year amortization schedules as is currently permitted under the Solvency Funding Relief Regulations. The letters should be permitted to be withdrawn if the plan becomes solvent without considering the letters as an asset.
3. We also support a longer solvency amortization period such as 10 years on a permanent basis, as well as the possibility of using asset smoothing over a period of up to 5 years for solvency purposes, without any cap on the asset value nor any notion of deemed trust in respect of a portion of the difference between the market value of assets and the smoothed asset value. These measures would allow plan sponsors to adjust their contributions on a more gradual basis. Also, the amortization of losses revealed by the valuation could be deferred to the year following the filing of the valuation rather than having a retroactive effect to the valuation date, as is being considered in Ontario.
4. We would also support the creation of special accounts comprising special payments made by the plan sponsor to fund solvency deficits, where such special accounts would be exempted from the dispute resolution mechanism in the event of plan termination and would clearly be attributed to the plan sponsor.
5. In the event that the legislation would not allow letters of credit to cover all special payments required to amortize solvency deficits in excess of going-concern deficits, we would ask for the possibility of using letters of credit to cover the additional special payments required for solvency purposes on account of the indexation provisions of the plan.
6. Given the limited annuity market, we would also support allowing plan sponsors to settle benefits by the transfer of commuted values in lieu of annuity purchases for all plan members in the event of plan termination.

Marine Atlantic would also support increasing the level of the surplus limit imposed under the income tax rules over which employer contributions are not allowed.

## **B. Requiring Full Funding on Voluntary Plan Termination**

We support the notion of full funding upon voluntary plan termination, over a period of 5 years.

## **C. Partial termination and immediate vesting**

Marine Atlantic has had to defend its view that surplus did not need to be distributed on partial termination. The Court of Appeal has found that distribution of surplus was not required. Now that the Supreme Court has decided not to hear an appeal in this case, it may not be necessary to amend the legislation to explicitly state that surplus distribution is not required on partial plan termination.

We have found that the partial termination process added administrative complexity without providing significant additional benefits to plan members. We therefore support the elimination of partial terminations for future events.

In respect of vesting, we find that the current two year requirement should be maintained as providing immediate vesting would increase the administrative burden for the plan without providing significant additional benefits to plan members.

## **D. Disclosure of Information**

We do not believe that there should be a mandatory requirement to establish a Statement of Funding Policy in the absence of changes to attribution of surplus rules, as employers would in most circumstances contribute the minimum amount required by law.

We support providing periodic non-personalized financial information about the plan to former members and retirees who still have an entitlement in the pension plan. For example, the minimum requirement could be to provide such information in the year following the filing of an actuarial valuation.

We would support the possibility of electronic delivery of information to plan members. For members in employment, individual member consent should not be required, whereas it could be required for former members and retirees.

## **E. Contribution Holidays**

We do not believe that there should be a mandatory requirement to develop a policy on contribution holidays.

We would support plan sponsors being allowed to take contribution holidays in a year in which a filed valuation report shows a surplus on the solvency basis (or going-concern basis if solvency

funding was not required), as well as in a year in which the actuary files a projected financial position for the plan which shows that the plan was still projected to have sufficient surplus at the beginning of the year.

#### **F. Void amendments**

We support the concept of void amendments for plans with solvency ratios below 0.85.