

Submission to the federal consultation process regarding the document:
Strengthening the Legislative and Regulatory Framework for Private Pension
Plans Subject to
the Pension Benefits Standards Act, 1985

First, thank you for this process. I believe it is critical that all Canadians gain a greater understanding of the need to protect their retirement incomes and to expand the reach of private pension plans in this country.

As a bit of a preamble, I would like to support the idea of a national pension insurance fund that would backstop private pension plans. It would offer the members of those plans some of the same security that public employees throughout Canada have, in that their plans are guaranteed by taxpayers.

And, of course, all Canadians should have greater retirement security with an enhanced Canada Pension Plan benefit. Most Canadians do not have a private pension plan to rely on when they retire. They must save through RRSPs and rely on the Canada Pension Plan and Old Age Security. Any changes we make to support private pension plans must be accompanied by changes to support those who do not have private pensions.

These would both be costly changes and would require time to put in place. All Canadians will be paying for these worthwhile improvements to our retirement security for many years to come, if there is a national consensus that they should be implemented.

But the debate over such major initiatives will not be short and I would not presume to predict the outcome so I will focus on one tiny little part of the picture that I think can be improved much sooner, without any additional cost to Canadian taxpayers: That is the way federally regulated private pensions plans operate.

I will be speaking from my own experience with one particular plan, although the lessons I have learned appear to apply more broadly to pension plans in general. But again, I do not presume to speak for anyone else.

I will touch on three issues: Pension plan solvency, pension plan design, and pension plan governance. All three I believe must be looked at in concert if we are to preserve the concept of the defined benefit pension plan in Canada.

And let me state from the outset that those who suggest the DB plan concept is dead are full of as much wisdom as the financial gurus more intent on the size of their commission cheques than the possibility they were steering us into a worldwide economic crisis.

But it has been horribly neglected and left to fend for itself in a hostile environment.

First, I will deal with the issue of pension plan solvency. The concept is simple: Regulators such as the Office of the Superintendent of Financial Institutions must ensure

that DB pension plans have enough assets to make good on their pension promises if the plan were forced to wind up.

They do this with calculations that rely on government long bond rates, under the assumption that when a plan winds up, one way to guarantee a pension is for the plan member to take the money and put it into something like an annuity that will ensure he or she will receive the promised pension.

This worked fairly well when those bond interest rates were relatively high. But as they have plummeted, the costs of buying those annuities have increased sharply and the costs of funding the solvency deficits that have ensued have become a major threat to pension plans and sometimes the companies that sponsor them.

I have watched a deficit grow in our company's pension plans from zero to \$36 million in less than a decade, largely because of those declining interest rates and their impact on solvency.

Abandoning the concept of solvency entirely and relying on only going-concern valuations _ those needed to ensure the plan has enough to meet its annual obligations only _ is not the answer. Active plan members and retirees need some assurance that they will have an income if their employer picks a bad time to go out of business. And this, for example, is a very bad time.

But if solvency requirements are so stringent that companies cannot afford to put the necessary money into pension plans, the outcome is pretty much the same for plan members.

So we need to balance the needs of active members, retirees and sponsors. One way to do that has been to increase the length of time a solvency deficit can be paid off. Instead of the five years set out in the regulations, the period has been extended to 10 years. Some would suggest 15 years, the same length of time over which a going-concern deficit can be amortized, would be more appropriate at this time.

But if plan members are accepting more risk plan sponsors also must accept that surpluses (if we ever see them again) should be used to improve plans in a way to reduce volatility, rather than simply used to create a contribution holiday. And yes, regulations need to be changed to recognize that 10 per cent probably isn't adequate as a cushion, given the experience of pension plans in the last 12 months alone.

One other way that has been suggested to mitigate the impact of large special solvency payments might be to measure solvency against corporate long bond rates, which are generally higher than government rates. This, of course, would mean that anyone who finds their plan winding up would have to pick an investment that would match those rates in order to receive the pension they expect.

This too means they shoulder greater risk. A compromise might be to measure liabilities for active plan members against corporate rates and those of retirees against government rates.

This would necessitate different payouts for members on windup but the principle is simple: active plan members would have time to build the value of their investment before they would be able to convert it into a pension at age 65. Retired members require their income stream to continue immediately.

For plan sponsors, the benefit would be reduced solvency payments. This is not an ideal solution. This is just one possible solution to a problem that we find ourselves in today. The long-term solutions I would suggest are different.

Which brings me to pension plan design: This is where I believe long-term solutions lie. We need to ensure that pension plans are designed in a way that minimizes their exposure to such wild fluctuations in value. This volatility is good neither for plan members nor sponsors.

Some plan designs are less vulnerable to solvency deficits. But they can be more costly to operate on a going-concern basis for both companies and for plan members.

The choice is to either pay more, every year, and not rely on the hope that the equity markets will generate 10 or 12 per cent, or reduce benefits to a level that can be funded by the assets within the plan and with more conservative earning projections.

Some benefits, such as early retirement subsidies, are costly to fund and harder to predict in terms of what they will ultimately cost.

Others, such as fixed indexing to ensure pension cheques increase annually to help offset inflation, can be more accurately predicted.

The idea that we can have it all and pay nothing is just not practical for workers. If we indeed do develop a national insurance plan to backstop federally regulated private pensions, it seems totally unreasonable to suggest that any plan design whatsoever be entitled to the same coverage.,

It's like charging the same insurance premium for a 50-year-old driver who has never had an accident, maintains his vehicle in perfect condition and drives only on Sunday to take his mother to church, and a 20-year-old convicted car thief with a crack habit who has had 30 speeding tickets and wrecked four vehicles in four weeks.

If you set up a plan which can only continue if it earns huge returns in the equity market or only if an employer makes huge, unsustainable annual contributions, you are creating a scenario that appears contrary to the goal of retirement security.

Which brings me to my final point: plan governance.

I believe all defined benefit plans should be jointly trustee plans. Employees, plan members, need to be on the inside, both to look after their interests and to really understand how their plans work.

Most plans in Canada, not all I realize, require both employee and employer contributions. We need to make retirement security a common goal of both workers and employers and remove it from the bargaining table as much as possible.

Collective bargaining is not the best way to deal with complex pension issues. That in no way suggests that pensions are not a negotiable item at the bargaining table. But once they are established, pension plans need to be administered through knowledge-based decision making and planning, to head off crises before they develop. These skills require a different environment in which to grow and develop than the bargaining process, which often becomes adversarial. Education and access to actuaries and other pension specialists are a prerequisite to good decision-making.

And yes, a statement of funding principles should, I believe, be mandatory. It is not only prudent it clarifies for all the importance of properly funding the plan and the obligations all recognize exist to avoid making short-term decisions for the sake of expediency.

Ironically, that is what we are faced with now to a certain extent. We are trying to ensure that as many DB plans as possible are left standing when this current crisis ends. To do that, we are accepting short-term measures which may increase risk. But it is important to recognize that we also must be prepared to take new steps, once this crisis eases, to make all those pension plans more stable rather than simply forgetting what has just happened and lapsing back into our old ways.

For example, it most certainly should not be left to the discretion of a plan sponsor to terminate a plan which is underfunded and the same should apply to partial windup, if that is even allowed to remain in the regulations. On this point, we at CMG stated our position in our 2005 presentation on some of these issues, which I helped write.

“It should be an economic necessity forced on the plan and not merely at the direction (whim) of the employer to do a partial windup. The maintenance of a pension plan should be the guiding principle; it’s in the interest of plan members and the Canadian taxpayer who otherwise must support individuals who have not secured their own retirement income, that pension plans continue. . . If the Government of Canada is serious about this exercise and moves to allow for the use of letters of credit and extending the amortization period for solvency deficit repayments, then the funding requirement for plan terminations must be strengthened. Otherwise workers will continue to be found at the end of the queue, with less than they bargained for.” (*CMG brief in 2005*)

All of this I believe can be encouraged by regulation and by regulators: A more limited and focused framework of what constitutes a defined benefit pension plan, oversight to ensure joint boards of trustees are exercising their responsibilities effectively, and

regulations which encourage rather than discourage the development of defined benefit plans.

These steps I believe are consistent with the principles laid out in the consultation document

- 1) The rules governing private pensions should be reflective of the voluntary and contractual nature of the arrangement;
- 2) Employees and retirees should have the information to make informed decisions; and
- 3) The legislative and regulatory framework should ensure that certain minimum standards are met in order to ensure a level of benefit security for plan members.

This, I know, has been a very simplistic presentation. We, at The Canadian Media Guild, would have liked to spend more time preparing something which addressed in detail all of the issues raised in the consultation paper. Unfortunately, those of us who spend much of our time on pension issues were occupied quite intensely with those issues and found little time to set aside to arrive at a broader consensus on what our position might be.

But we felt it was too important an issue to allow it to go without any input. So, here I am.

Thank you

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