



March 9, 2009

Diane Lafleur
Financial Sector Policy Branch
Department of Finance
L'Esplanade Laurier
20th floor, East Tower
140 O'Connor Street
Ottawa, ON
K1A 0G5

Dear Ms. Lafleur:

Re: Discussion Paper on *Strengthening the Legislative and Regulatory Framework for Private Pension Plans Subject to the Pension Benefits Standards Act, 1985*

The Canadian Chamber of Commerce network is the largest business organization in Canada, with membership of 175,000 businesses. Our members include both large and small companies in all sectors of the economy and all regions of the country. We pride ourselves on being "*The Voice of Canadian Business*" and we work hard with governments of all political stripes to ensure that Canada's business community is able to maximize its economic and social contribution to our national wellbeing.

The Canadian Chamber commends the Government of Canada for consulting with Canadians on the most appropriate means to strengthen the legislative and regulatory framework for registered pension plans subject to the *Pension Benefits Standards Act, 1985*.¹ It also commends the Department of Finance for issuing a comprehensive discussion paper. On behalf of our members, we are pleased to provide input to the Department as it consults with Canadians on this critically important issue.

The sharp decline in global equity markets and long-term interest rates has reduced the funded status of Canadian defined benefit (DB) pension plans, including federally regulated private pension plans. According to Watson Wyatt Worldwide, the ratio of plan assets to plan liabilities (i.e. the funded ratio)

¹ These plans cover areas of employment under federal jurisdiction, including banking, telecommunications and inter-provincial transportation. Plans located in Nunavut, the Yukon and the Northwest Territories are also regulated under the federal *Pension Benefits Standards Act, 1985*.

of the typical pension plan fell from 96 percent at the start of 2008 to 69 percent by year-end.² As a result, many plan sponsors are required to make substantially higher pension contributions to offset substantial pension losses. This requirement is taking effect during a recession when they can least afford it. Moreover, as a result of these large special payments, companies are diverting available funds away from productivity- and growth-enhancing capital investment (plant and machinery & equipment). Their competitiveness and that of our nation is undermined. Additionally, plan sponsors may have to pass on the increased costs to their customers; reduce employment/employee compensation; and/or ask employees to increase contributions.

The federal government proposed temporary solvency funding relief for federally regulated pension plans in the November 27, 2008 *Economic and Fiscal Statement*. Budget 2009 confirmed the Government's intention to allow pension plans to extend their solvency funding payment schedule (i.e. amortization period) from five to 10 years in respect of solvency deficiencies as at December 31, 2008, subject to certain conditions. Specifically, both members and retirees would need to agree to the extended schedule, or the difference between the five and 10 year payment schedule would need to be secured by a letter of credit. One of these two conditions would need to be met by December 31, 2009. If buy-in by plan members or a letter of credit were not secured by the end of 2009, the plan would be required to fund the deficiency over the following five years. The specifics surrounding this solvency relief will take the form of new regulations to the *Pension Benefits Standards Act, 1985*. Amendments to the Act could be drafted by the fall of 2009.

Our members expect that obtaining the consent of employees and retirees to extend the repayment schedule will be difficult. In particular, the requirement for retiree consent may preclude access to funding relief for the very employers and plan sponsors that most need the relief. In our view, the option to extend the amortization period should not be conditional upon consent.

Our members agree that the five-year solvency deficit amortization period imposes onerous and volatile cash demands on companies. It should be extended to at least 10 years and applied consistently to all companies. A 10 year amortization period for funding a solvency deficiency would allow businesses to spread their solvency payments over a longer period of time, freeing resources for operations.

Plan sponsors should be able to use either a letter of credit or place funds in a trust separate from the pension fund in lieu of solvency contributions. If utilized, such instruments should provide the same security to plan members as cash contributions to the pension fund, i.e. they should be recognized as a pension asset in solvency valuations. However, the use of a letter of credit should not be mandatory as the Government proposed in the November 27, 2008 *Economic and Fiscal Statement* as part of its requirements for temporary solvency funding relief.

² Watson Wyatt Worldwide. "Solvency of Canadian Pension Plans Plummets in 2008, Watson Wyatt's Pension Barometer Finds." *Press Release*. January 8, 2009.

With credit markets remaining tight, it may be difficult for many companies to obtain a letter of credit, or secure one at a reasonable price. If used, letters of credit would be released if the pension returns to a fully funded position as would assets placed in a separate trust from the pension fund.

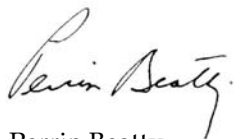
We strongly urge rapid action to provide the funding relief many employers are urgently seeking while aiming to enhance the security of existing pension plan benefits. At this time of significant uncertainty and market volatility, plan members affected should be provided with notice of any changes, greater clarity and understanding of the issues, as well as full disclosure of the funded status of their plans. Employee concerns should be alleviated by making it clear that an employer should not be able to terminate a plan and continue in business without funding benefits in full. At the same time, there should be no partial plan termination under the *Pension Benefits Standards Act*.

While the focus thus far has been largely on DB plans, Canadians who save in defined contribution (DC) pensions and registered retirement savings plans (RRSPs), or draw income from registered retirement income funds (RRIF), have seen their savings decline sharply in lockstep with equity markets and long-term interest rates. If a DB pension plan falls short of its obligations, the plan sponsor must fill the gap. If a DC plan or RRSP suffers major losses, individuals do not have the flexibility to make up for the losses – they are, for example, limited as to how much they can contribute annually. To address this discrepancy and provide all Canadians with the same opportunity to save for retirement, the federal government could increase tax-deferred contribution limits, allow DC and RRSP holders to save longer by delaying the age when they must stop making contributions and start drawing down funds (currently 71), expand the types of investments one can hold in these plans, and reduce the amount an individual is required by law to withdraw (i.e. the minimum percentage) from a RRIF account each year.

Finally, as pension plans are regulated either federally or provincially, and the regulatory regimes are closely related, it would be constructive for the federal government to coordinate its work in this area with provincial and territorial governments.

The Canadian Chamber of Commerce appreciates the opportunity to take part in this important debate. We give the Department permission to post our submission on the Finance Canada web site. We look forward to reviewing the Government's final report at the earliest possible opportunity.

Sincerely,



Perrin Beatty