Canadian Federation of Pensioners
Advocating on Behalf of Pensioner Groups & Their Members

Pensioner Issues and Proposals for Improving Single Employer Defined Benefit Pension Plans

Submission to the
Nova Scotia Pension Review Panel
June 2008

The Canadian Federation of Pensioners (CFP) reviewed the Nova Scotia Pension Review Panel discussion paper issued May 28, 2008 as well as the Nova Scotia Pension Benefits Act and Regulations in preparing this submission. CFP previously researched and forwarded in-depth submissions[1] to the Ontario Expert Commission on Pensions and the Alberta – British Columbia Joint Expert Panel on Pension Standards Review. These earlier submissions provide additional background material and details in support of issues and proposals included in this paper.

In recent years, media reports on Defined Benefit Pension Plans (DB plans) with large funding deficits, along with the publicity about the number of businesses in creditor protection and bankruptcy situations have raised fears about pension security amongst a growing population of retirees. It is also of note that Pensioners now equal or outnumber the active members in more and more DB plans, significant numbers of employees have often been encouraged in recent years to take early retirement, and pensioners are living longer. Taken together these facts add significantly to the pressures on DB plan funding and therefore more potential risk exposure for current retirees.

It is therefore imperative for pension legislation be updated and for all DB plan stakeholders to recognize that:

- Pensioners have a vital and legitimate interest in the financial well-being of their pension plan;
- Pensioners need to be recognized as significant DB plan stakeholders in pension legislation and regulations; and
- Pensioners should be consulted in all stakeholder discussions on issues and proposals which touch on present and future pension benefits.

---

[1] These CFP submissions are posted on the respective OECP and AB-BC Panel websites. Copies may be obtained directly from CFP upon request.

Responses to questions posed in the Review Panels' discussion paper

Pension plan legislation: *Should pension legislation and regulation have goals other than those listed? (p.8)*

a. Item 3 on the list refers to ensuring that employees have appropriate access to benefit information. Employees and retirees should also have the right to access the same information pension plan information as filed with the Supervisor, i.e. the data included in the AIR and formal actuarial studies.

   For Nova Scotia regulated plans, annual/triennial financial and actuarial data may be available to employee and pensioner representative on pension committees but this is insufficient.
   - It excludes all members and former members for those plans which don't have employee and pensioner representation on their committees.
   - It is not mandatory to provide this information to all employees and pensioners.
   - Where there are committee with pensioner representatives, the representatives may be unable to disseminate this information to pensioners due to privacy of information legislation,
   - Similarly, privacy of information legislation makes it difficult or impossible for members and pensioners to contact their committee representatives.
   - In summary this current predicament suggests that the employee and pensioner appointments to these committees could amount to little more than "window-dressing".

b. ***New legislation is needed to ensure retirees have ready access to their DB plan financial and other performance information***. Newer technology makes this economically feasible e.g., internet website access. But retirees without internet facilities should be able to request their pension plan administrator to provide paper copies. Some pension plan administrators are already providing annual pension plan financial and other data to their active members and pensioners in both internet/intranet and hard copy formats.

DB plans versus DC plans: *Should the current trend towards less DB plans be accepted, or should regulations permit DB plans that may be more attractive to employers by reducing funding risks? (p.12)*

- CFP proposes that the current parameters for DB plan funding need to be changed. Currently it is considered normal and acceptable for a plan to have a funding solvency deficit and to be allowed several years in which to eliminate it. This is the wrong situation to have if the sponsor is also implementing plan improvements or is having cash problems or financial issues with its business operations. It inevitably presents the sponsor's chief financial officer with a picture that the DB plan is too costly and a financial risk to the business.

- CFP promotes the need to keep DB plans fully solvent at all times and to provide the sponsor with the ability to fund and access a pension plan reserve in order to help sustain this requirement. While there could be increased costs to the sponsor in building up a reserve, once it is appropriately funded, the sponsor can then continue to fund the DB plan without having to make what many times are unforeseen special payments. The sponsor benefits by being able to have a long term funding plan for the reserve that takes into consideration the economic and business cycles of the company and to have a cushion for "adverse deviation".

- It is not clear that anyone can predict at this time whether or not there will ever again be a growth in the number of DB plans. But, there are new investment opportunities and tactics available to pension fund managers as presented at the 2008 Conference Board of Canada pension summit held in April. These require sophisticated knowledge and experience and as a result are initially of benefit to large pension funds. These newer opportunities and techniques are an attempt to resolve issues with low bond yields and the like. Possibly, ways could be found to make it more feasible for smaller pension plans to afford the same fund management expertise and access to newer types of investment through pooling of their funds. And ready access to fund pooling might also make it more attractive for new DB plans to be started.

<u>Pension Plan Funding</u>: *Should there be a requirement for full funding at wind-up? (p.15)*

If the CFP proposal for full solvency funding at all times were implemented, then full funding would be in place when there are voluntary wind-ups. It would also make it more likely that full or near-full funding be in there should a DB plan be placed or forced into involuntary wind-up.

CFP has commented to the OECP regarding the current status quo of the Ontario Pension Benefit Guarantee Fund (PBGF) which is in place for when plans are wound-up with a funding deficit. A PBGF doesn't provide more than a partial resolution of a funding deficit but could continue to serve a useful purpose for as long as there is a risk that DB plans can be wound-up in a deficit position. But for Ontario this would only be acceptable if the PBGF is better funded and the assistance it provides to offset some loss in pension benefits is kept current with inflation *(at likely a significant increase in contribution costs for plan sponsors).*

CFP, however, would prefer to see the Ontario PBGF become redundant as our proposal for continuous full solvency funding of DB plans is implemented.

Surpluses: *Should regulators speak to the question of the ownership of plan surpluses? If so, what should it say?*
Is the concept of "deferred wages" valid? And if so, is there any current validity to it with respect to the determination of the responsibility for funding and for entitlement of surplus? (p.16)

Surplus ownership (the issue of "assymetry") is the one issue that definitely needs to be resolved as soon as possible in order to encourage sponsors to return to contributing more than minimal DB plan funding.

CFP proposes a two-part approach coincident with implementation of new pension legislation and regulations:

- Going forward, ownership of fund surpluses should reside with whoever is funding the plan and this provision would take precedence over all surplus ownership wording in current plan texts. N.B. Under the CFP proposal for full solvency funding at all times and the establishment of a reserve fund, surplus would only occur if the reserve fund was in excess of its upper range as established by the plan's actuaries (or only after the plan had gone through full wind-up).
- Currently, there may be no universal resolution acceptable to all parties regarding surplus ownership because there is such a diversity of opinion over the concept of "deferred wages". To make it more difficult, some plan texts are explicit on surplus ownership but the details of which may or may not be known or completely understood by all affected parties.

CFP also proposes that new legislation would require that pension plan sponsors be responsible for finding resolution regarding real or potential ownership issues applicable to existing plan surplus with the plan's members and pensioners. The new legislation should set a time limit and should include provision for the regulator to force conciliation if required.

Governance: *Should government attempt to define, audit and regulate "good governance"? Why or why not? If so, what types of governance issues should be regulated? Given that there are associated costs with governance, what is an appropriate cost for "good governance"?*

- While the CAPSA guidelines referred to in the discussion paper are excellent, they need to be adapted for each pension plan and there needs to be a process for quickly modifying or adding new principal guidelines without having to pass new legislation or government regulations
- CFP suggest consideration be given to requesting the Association of Canadian Pension Management (ACPM), to consider taking on the responsibility for overseeing the ongoing review and updating of principal governance guidelines in conjunction with the regulators. New legislation could provide for the regulators to mandate the use of these guidelines by pension administrators and sponsors in establishing their local governance requirements.

- Good governance benefits all stakeholders *including the sponsor* who, along with pensioners, most likely have the most to lose if there is a governance failure. Following good governance should not be seen as a cost by the sponsor but as a benefit.
- The federal pension regulator, OFSI, found in recent field visits to pension administration offices that even where there are detailed and formally adopted governance standards and practices, they are not always being followed on a day to day basis.
- Currently the overall pension plan administration is not subject to regular independent professional quality and performance review. ***CFP considers this a major issue and suggests that the Canadian Institute of Actuaries to be tasked with rectifying this matter. To continue as is the actuarial professionals are exposed, as are the sponsors and the plan members, pensioners, professional consultants and others.*** This requirement could be part of ongoing pension plan administration costs.

Role of Regulators: *Does the regulatory system work effectively? (p. 20)*

The primary role for the pension regulator should be to protect the interests of plan members, pensioners and other beneficiaries. In doing so, the regulator needs to be mandated and properly funded to proactively monitor the status of pension plans that are operating in today's business, economic and financial environment. This should include some measure of oversight of a sponsor's continued ability to fund its pension plans - particularly for plans which are underfunded and where a failure of the sponsor's business could have devastating long term consequences for pensioners and plan members, on local municipalities and could impact the provincial economy.

Additional Items for Review Panel Consideration

Plan Amendments that negatively impact on pension benefits

The current Nova Scotia legislation and regulations require that members and pensioners be advised of any such proposed plan amendments and that members and pensioners are allowed to comment to the regulator. This appears to CFP to be an inadequate process considering the long term potential implications for members and pensioners.

CFP notes that some other regulatory jurisdictions require that members not only be advised but also they must provide two-thirds majority approval before the amendments may be implemented. The Review Panel is urged to consider making recommendations to better balance the position of plan members and pensioners versus the plan sponsor in this sort of situation.

Improving the timeliness of pension plan reporting

Currently Nova Scotia regulations require the AIR to be filed with the regulator no later than six months following the plan's year-end. An actuarial valuation report is to be submitted within 12 months. In today's business, economic and financial climate, these filing timelines are far too late for effective monitoring by the regulator or anyone else. Modern information technology should allow for this information to available for filing much sooner. ***Having this information available sooner and available for access by plan members and pensioners is much needed versus currently being kept in the dark and left to assume the worst.***

Indexation of Pensions

CFP has no data on the number of DB plans regulated by Nova Scotia which provide some form of pension indexation to offset increases in the cost of living. Nor does CFP know how sponsors might currently or periodically in the past have provided an ex gratia cost of living adjustment.

CFP recommends that the Review Panel consider this item in light of the fact that retirees are living longer and therefore are being more and more exposed to the effects of increases in the cost of living on their spending power. This fact has been recognized within the other pillars of the Canadian pension system as the Old Age Security, the Guaranteed Income Supplement and the CPP/QPP benefits are all adjusted for increases in the cost of living.

In recent times Canada has successfully managed to control inflation which should make it easier for actuaries to determine the long terms requirements associated with indexation of DB plan benefits and make it more affordable. CFP therefore proposes that consideration be given by the Review Panel to recommend that indexation be included in new pension plan legislation, even if it is only partial indexation to begin with (i.e. indexation with a maximum cap).

CFP

Prepared by the Canadian Federation of Pensioners
Pension Review Committee

Jim Murray, Chairman
jas.murray@sympatico.ca
Tel: 416-283-4557

The Canadian Federation of Pensioners (CFP) was formed in 2005 to bring together retiree groups for the purpose of exploring pension plan issues from a pensioner point of view. Currently CFP is focusing on the need to improve the long term security of single employer defined benefit pension plan (DB plan) pensions by:

- Participating in government and other forums that have been formally established to review issues and challenges with DB plans; and
- Identifying pensioner issues with the current Canadian legislation for when a business is sold or merged, declared insolvent, bankrupt or is forced to wind-up, and the pension plan is underfunded.

CFP is a growing organization which currently has seven actively involved pensioner groups whose DB plans are sponsored by a wide spectrum of businesses and whose individual members encompass retired corporate officers, senior executives, management, non-management, union and professional employees. In addition CFP liaises with 13 other retiree groups which, together with the 7 active groups, represent the interests of approximately 100,000 DB plan pensioners.