



Gordon B. Lang & Associates Inc.
Actuaries & Financial Consultants

Suite 260, 1209 – 59th Avenue S.E. Calgary, Alberta T2H 2P6
Phone (403) 249-1820 Fax (403) 246-2431

July 2, 2008

Mr. Bill Black
Chair, Pension Review Panel
c/o Nova Scotia Labour and Workforce Development
Policy Division
PO Box 697
Halifax, NS B3J 2T8

Dear Mr. Black:

Re: Pension Review Panel: Discussion Paper

Thank you for the opportunity to provide input on the Pension Review Panel's Discussion paper regarding potential changes to the pension benefits legislation in Nova Scotia.

Gordon B. Lang & Associates Inc. is a full service actuarial and consulting firm specializing in providing small and medium-sized corporations with benefits that respond to the needs of their employees. We manage over 1,000 pension plans across the country; most of which meet the definition of a designated plan as per Section 8515 of the Income Tax Act.

We strongly believe that our products address an increasing need among small business owners for retirement security and are concerned that some of the legislative changes recently implemented and currently being considered by the province of Nova Scotia will severely limit the accessibility to such products in your province; perhaps even resulting in the relocation of the business to a province with greater flexibility.

With regards to the discussion paper, we will limit our comments to two of the identified policy issues; namely Pension Plan Funding and Role of Regulators.

4.2 Pension Plan Funding

With respect to funding on a solvency basis, Nova Scotia has identified three exemptions to the requirement of full solvency funding within five years. Specifically, university plans, plans for municipalities and multi-employer pension plans enjoy, temporarily, more lenient solvency funding requirements.

It is our position that designated plans as defined under subsection 8515(1) of the *Income Tax Regulations (ITR)* should be fully exempt from the provincial requirement of funding

on a solvency basis. Although subsection 8516(3) of the *ITR* identifies contributions required by Pension Benefits Legislation as prescribed, and thus eligible, contributions to designated plans are specifically excluded. Therefore, contributions to plans that have less than 10 active members, where the members are highly paid, are not permissible under the *Income Tax Act* putting the plan in a revocable position should they be required by provincial statute.

This legislative conflict between the provincial and tax statutes serves as a major deterrent for business owners to implement pension plans for their key employees in Nova Scotia. Several of the other provincial jurisdictions have recognized this and have exempted such plans from certain, or all, of their requirements. The mandate of the provincial jurisdictions is a laudable one of ensuring the security of benefits and protection of participant's interests in the plan. Since designated plans are often implemented in situations where the business owner is also the plan member, the role of the regulator is much less significant in these cases.

Further to the above comments, we feel that full funding at wind-up for designated plans should not be required as it runs counter to the creation of new defined benefit pension plans and the protection of the sustainability and security of benefits under existing defined benefit plans. The implementation of a pension plan is a voluntary undertaking on behalf of the plan sponsor and, while it is important to provide benefit security to the plan members, the requirement for full funding of the solvency deficiency on plan wind-up is, in our opinion, a significant detriment to the future health of the defined benefit pension plans for small businesses in Nova Scotia.

4.7 Role of Regulators

We feel strongly that plans with less than ten members should be exempt from provincial regulation altogether. The majority of these plans fall into the 'designated plans' category under the *Income Tax Act* and are implemented for either connected members or highly paid non-connected employees. The deficits in these plans have typically been funded by means of lump sum payments rather than amortization payments over a specified time period. With these types of plans, either the business owner or a key employee is the plan member, and thus the benefit security concerns that exist for broad-based plans, are not applicable in these cases.

This exemption, if provided to designated plans, will have no negative impact on the funding requirements for broad based plans and will likely have a positive influence on the defined benefit coverage for Nova Scotia employers. This will also allow the Nova Scotia regulator to concentrate their oversight on the types of arrangements where benefit security and solvency funding is not as well assured, thus enhancing their regulatory role in the supervision of Nova Scotia's defined benefit pension plans.

We would be pleased to provide additional clarification on the above points, if required, and eagerly anticipate the changes to the legislative position of Nova Scotia as a result of this consultation process.

Respectfully submitted,

Gordon B. Lang, FFA, FCIA, FCA, ASA
Gordon B. Lang & Associates

Janice Laird, FCIA, FSA
Gordon B. Lang & Associates