



Date: July 2, 2008

To: Nova Scotia Pension Review Panel

Subject: Review of Pension Benefits Legislation

Introduction

Thank you for the opportunity to respond to the May 28, 2008 Discussion Paper of the Pension Review Panel. This response is submitted by the Saint Mary's University Pension Committee ("Committee") on behalf of the 845 members of the Saint Mary's University Pension Plan ("Plan"). The Plan currently holds pension assets in the amount of \$103 million.

Saint Mary's University sponsors the Plan, a defined contribution registered pension plan under the jurisdiction of the Nova Scotia Pension Benefits Act. The Plan is administered by the Committee, comprised of representatives of both the employer and various employee groups.

The Plan features an employer contribution rate of 8% of each member's earnings, with members contributing 6% of their own earnings. The investment choices available to members are specifically selected by the Committee to provide appropriate options to the Plan's diverse membership at attractive fees. Plan activities, including investment performance, are rigorously monitored by the Committee, and we strive to provide meaningful assistance, information and tools to our plan members to support their decision-making under the Plan. We are very proud of the Plan and work diligently as a Committee to ensure it is a well-run and beneficial arrangement for all participants.

The Pension Review Panel Discussion Paper poses a variety of questions for potential comment from interested parties. Our comments follow the order set out in the Discussion Paper. Much of the content of the Discussion Paper relates specifically to defined benefit arrangements. While we support changes to pension legislation that will enable employers and employees to establish pension arrangements that are suitable for them, our comments are restricted to those sections of the Discussion Paper that are more directly relevant to our situation.

4.1 DB Plans versus DC Plans

The Committee believes that legislation should provide a logical and predictable framework for pension plan decisions and administration, but that legislation should not unduly control plan design issues. New plan designs should be permitted within a framework of legislative controls that allows flexibility where adequate member protections are in place. Legislation should not prefer one plan design over another.

This section of the Discussion Paper also asks whether investment choices in a defined contribution plan should be limited and by whom. The administrator of a defined contribution pension plan owes a variety of duties to plan members, imposed by legislation, regulatory guidelines (e.g., CAP Guidelines), private contractual arrangements, and the law generally. In light of these duties, which include providing investment information and support to members and monitoring investment performance, it is appropriate that the plan administrator have the authority to determine the investment choices to be made available.

This section also asks whether defined contribution plan members should have the ability to use disbursement options such as LIF-type payments directly from a plan. We agree that such options should be available under legislation if a plan chooses to provide them. Since such options can create ongoing governance-related responsibilities for plan administrators in respect of terminated employees, a plan should not be forced to provide them as a minimum standard.

4.2 Pension Plan Funding:

This section of the Discussion Paper poses the question of whether a province-wide plan for some public or private employers is a good idea.

We understand that a variety of such plans are currently operating in Nova Scotia. None of these are created specifically by the Pension Benefits Act. If such plans are formed in the future, participation in them should be optional for organizations, and not mandated by legislation.

4.5 Governance

The current framework of legislation, regulatory guidelines and common law principles of fiduciary duty inform pension plan governance. Since appropriate pension plan governance is both contextual and evolving, it is not desirable for legislation to impose prescriptive

requirements related to governance details. We consider the current framework adequate in this respect.

Governance is not separate from the administration of a pension plan under legislation. Governance is the structure and processes put in place to ensure that all required obligations are met. Legislation should not specifically regulate governance costs. It should provide that reasonable administration expenses, including those related to governance, may be recovered from pension plan assets, subject to any other arrangements that may apply in an organization, as in cases where an employer pays such expenses directly.

4.6 Harmonization

We support the concept of harmonized pension legislation. Given the relatively small plan membership under Nova Scotia's jurisdiction, the high proportion of Nova Scotia plan members in plans registered elsewhere, and the fact some sectors (such as universities) compete at a national level, it makes sense that our legislation should not diverge unreasonably from standards adopted at least relatively uniformly elsewhere.

This is especially critical in areas of more technical regulation, such as potential safe harbour rules discussed below. A 'made in Nova Scotia' solution in this area that does not accord with developments elsewhere in the country or that imposes detailed requirements not applied elsewhere will likely not succeed on a practical level.

4.9 Unlocking Funds

We encourage the Review Panel to consider unlocking for terminated members who are not Canadian residents. This is helpful for organizations such as universities, which frequently employ individuals who are ordinarily resident in another country but who come to Canada for a period of time before returning to their home countries.

5.1 Safe Harbour Rules

The Committee endorses the development and implementation of "safe harbour" rules for defined contribution pension plans.

The general experience of defined contribution plans shows that plan members will not always make choices that are most appropriate for their long-term retirement goals. Examples include

individuals whose asset allocations do not align with the risk tolerance reasonable for their career stage, and individuals who fail to enroll in programs and optimize retirement savings opportunities.

There is a great deal that can be done within a defined contribution environment to address issues such as these. Notably, there are plan designs including a variety of 'auto' features that can prompt members toward optimal choices. This could include features like automatic enrolment, automatic contribution increases at different career stages, and direction of investment accounts to default investment choices considered suitable based on the age or career stage of the individual member (e.g., "target date" or "lifecycle" funds). All automatic features would still reserve the ability of a member to make a different choice, but that would require an advertent choice by the member.

Currently however, there is considerable hesitation among plan sponsors and administrators to implement plan design features such as these for fear of incurring liability. Pension legislation should provide a safe harbour framework for defined contribution plans, setting out parameters within which plan administrators and others would enjoy legal protection.

Safe harbour rules that are overly-prescriptive are to be avoided, since the 'best' choices for any defined contribution plan are highly context-driven and evolve over time. Useful safe harbour rules could provide certainty around issues like automatic enrolment and contribution increases (including acceptable notice periods for implementation of changes), electronic communication with members, and the attributes of acceptable default investment options. In addition, safe harbour rules should be optional. A plan should have the option to operate within that environment if it wishes to take advantage of the protections offered, or outside it if that is preferable in the circumstances.

5.3 Tax Free Savings Accounts

The Discussion Paper raises the issue of the appropriate regulatory position of Nova Scotia regarding tax free savings accounts. Group registered retirement savings plans are also mentioned in the Paper in section 4.8. Given the important differences between such arrangements and registered pension plans, a different legislative focus would be required if Nova Scotia regulation were imposed. Significant federal attention is already (or will be) directed to these arrangements under the Income Tax Act. We believe the attention and resources of Nova Scotia pension legislation should be focused on creating and maintaining a meaningful

and logical framework for registered pension plans, and not be diluted by including other arrangements in the pension regulatory framework.

Other matters

Pension plans are complicated arrangements that affect the critical interests of plan members and their employers. It is critical that the pension regulator have sufficient expertise and resources to deal with pension matters in an appropriate, efficient and timely manner. This concern is intensified where the regulator is granted significant discretionary authority. Significant new regulatory responsibilities should not be imposed without a commitment to provide appropriate support to ensure their discharge.

Summary

The following are the main points for consideration of the Pension Review Panel:

- We support changes to pension legislation that acknowledge the existence of defined contribution pension plans as an important part of the pension environment.
- Legislation should provide a logical and flexible framework for operation of plans within parameters that protect member benefits without imposing unnecessary restrictions or regulatory requirements on plan sponsors and administrators.
- Pension legislation should not prefer one particular plan design to another.
- We encourage the adoption of reasonable safe harbour protections for defined contribution pension plans.
- The importance of the pension regulatory function should be recognized through the allocation of appropriate resources and expert support.

We appreciate this opportunity to share our comments on these important pension matters.

Respectfully submitted,



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