

Submission of Towers Perrin Respecting the

Nova Scotia

Pension Review Panel's

October 17, 2008

Position Paper

November 2008

PRIVATE AND CONFIDENTIAL

November 25, 2008

Pension Review Panel
c/o Nova Scotia Labour and Workforce Development
Policy Division
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Ladies and Gentlemen:

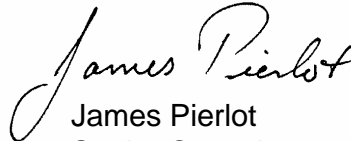
**SUBMISSION OF TOWERS PERRIN RESPECTING THE
NOVA SCOTIA PENSION REVIEW PANEL'S OCTOBER 17, 2008 POSITION PAPER**

We are pleased to enclose Towers Perrin's submission respecting the Nova Scotia Pension Review Panel's Position Paper issued on October 17, 2008. We look forward to discussing any questions you may have about our submission.

Sincerely,



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A. Introduction

We thank you for the opportunity to make this submission to the Nova Scotia Pension Review Panel (the Panel) on behalf of Towers Perrin with respect to the Panel's tentative recommendations contained in the Panel's Position Paper issued on October 17, 2008.

In July 2008, we made a submission to the Panel respecting the May 28, 2008 Discussion Paper thereby demonstrating our keen interest in pension reform, especially the creation of a much more favourable environment for the creation, maintenance and improvement of occupational pension plans in the interest of increasing pension coverage and retirement income adequacy, particularly for private sector workers. We are pleased to see that some of our suggestions were reflected in the tentative recommendations contained in the Position Paper.

However, as discussed later in this submission, we believe that adjustments are required to the Panel's tentative recommendations in order to achieve what should be the primary objectives of pension reform in the present context.

We have prepared our submission to correspond with the structure of the Panel's Position Paper. The numbered sections in the following pages correspond to the numbered sections in the Panel's Position Paper. For simplification purposes, in this document we will not repeat the comments contained in our July 2008 submission on the Panel's Discussion Paper.

We would be pleased to meet with the Panel to discuss any questions you may have about our submission.

B. Review of Public Consultations

2.1 Panel's Perspective

Summary of Panel's Recommendations and Position:

- *The Panel's focus is first and foremost to create an environment where pension promises will be fulfilled.*
- *The Panel has sought to simplify government regulation and to leave to individual plans the particulars of their benefit design, subject to the required minimum standards.*
- *This requires complete transparency of information, so that employees (and their representative) can be fully informed on issues affecting their plan such as funding status, proposed benefit changes (when the associated amendments are filed with the Superintendent), and regulatory issues.*
- *The Panel also believes that pension plans will work much better when there is active employee involvement through joint trusteeship or other means, such as active employee Advisory Committees.*
- *The Panel does not believe that wage/benefit tradeoffs should be made by government.*
- *The Panel hopes that making changes that increase the flexibility and administrative ease of defined benefit (DB) pension plans will be enough to at least arrest their decline.*
- *We must have a legislative framework that works well with the existing environment while remaining open to potential future developments.*

We support most of the elements of the above Panel's position. In the following sections, we will address several of these elements in more detail.

The above position needs adjustments. We strongly believe that a primary focus of pension reform must be to create a much more favourable environment for the creation, maintenance and improvement of occupational pension plans. For Nova Scotians, what is the benefit of a high level of assurance that pension promises will be fulfilled if such promises are disappearing or available only to a shrinking number of workers? Appropriate changes to pension legislation could do a lot toward the creation of an environment favouring increased pension coverage. Increasing harmonization of pension legislation across Canada would also be of great assistance in creating such a positive environment. Overall, the implementation of the Panel's tentative recommendations without revisions is not expected to increase coverage and indeed, would likely produce a more unfavourable environment for creation of new pension plans and maintenance of existing plans.

We are not opposed to increased transparency of information, especially when aiming at making sure that the parties understand the "pension deal". However, costs for complying with the information requirements of pension legislation must remain at a reasonable level.

In certain plan situations, employee involvement in plan administration may have some benefits. However, our experience with pension committees in Quebec and committees in other jurisdictions has demonstrated that employee involvement has not led to increased administrative efficiency or higher benefit security in most plan

situations. Decisions as to the most appropriate governance model should be left to each plan. However, we believe that the level of involvement of employees should go hand-in-hand with the level of the risk shared by employees.

2.2 Goals of Pension Legislation and Regulation

Summary of Panel's Recommendations and Position:

The goals of pension legislation should be:

1. *To maximize the likelihood that pension promises are met by:
 - (a) Isolating pension funds from employer funds;
 - (b) Providing vesting protection so that benefits are not lost;
 - (c) Providing appropriate rules for the protection and benefit of employees in the event of discontinuation of employment, early or late retirement; and of spouses or beneficiaries in the event of the employee's death, or marriage breakdown.
 - (d) Prescribing appropriate minimum funding requirements.*
2. *To ensure that employees have appropriate access to information about their individual benefits;*
3. *To provide transparency of information about all aspects of pension plans to members; and*
4. *To promote and facilitate the implementation and continuation of pension plans.*

Pension legislation should avoid:

1. *Establishing minimal acceptable quantum of benefit*
2. *Enforcing equity between plan members (beyond that already applicable to other forms of compensation)*
3. *Favouring one form of pension over others*
4. *Preventing new forms of pensions from being developed*
5. *Increasing regulatory burden either quantitatively or qualitatively*
6. *Discouraging the establishment or continuation of pension plans by unnecessary regulatory burden.*

The bias in interpreting the Act and regulations should be permissive, not restrictive. If it is not forbidden and does not contradict the spirit of the Act and Regulations it should be permitted.

We support the above goals and list of what the legislation should avoid.

C. Panel's Answers to Key Questions

3.1 Types of Pension Plans

Summary of Panel's Recommendations and Position:

- *The legislation should be flexible enough to enable various types of benefit design (DB, defined contribution (DC), adjustable contribution/benefit (ACB), and combinations) and funding sources (single or multi-employer).*
- *Accommodation of other designs or arrangements would be made by subsequent regulation.*

We fully support the above flexibility. In line with the Panel's position expressed in section 2.2, pension legislation should state that a plan design or funding arrangement is permitted if it is explicitly prohibited.

3.1.1 Adjustable Contribution / Benefit Plans

Summary of Panel's Recommendations and Position:

- *ACB plans should be available for single employer or multiple-employer groups.*
- *Joint trusteeship of ACB plans is to be mandatory.*
- *There is no concept of surplus for these plans. All employer contributions are fully committed to the plan.*

We support the above recommendations, with the exception of mandatory joint trusteeship for ACB plans. While we acknowledge that joint trusteeship may be a desirable governance feature in some ACB plans, it would not be appropriate for all. For example, ACB plans offered by a financial institution, a professional association or a trade association pursuant to legislated governance standards have the potential to increase pension coverage with sound administration even though they might not be jointly trustee'd.

We note that, over the life of an ACB plan, there will be fluctuations in its financial position. Consequently, an ACB plan will have surplus assets from time to time. Pension legislation should allow that surplus assets of ACB plans be used to improve benefits and/or reduce contributions, or simply be retained in the plan to create a funding margin.

Summary of Panel's Recommendations and Position:

- *The government should encourage more DB plans through more flexible legislation and regulation and through promotional activities.*
- *Promotion should be a function within the Department of Labour and Workforce Development, separate from the office of the Superintendent of Pensions.*

Since we believe that DB pension plans are most effective in managing the financial risks faced by Canadians providing for their retirement, we support the above recommendations. However, promotional activities and flexible legislation will not be enough. The DB pension promise (benefit and financial) must be clarified and the regulatory environment must change to reduce disincentives to sponsoring DB pension plans.

There may be some advantages to transferring the promotion role to a government body other than the Superintendent. However, under such a model, there would need to be coordination between the office of the Superintendent and other government bodies to ensure that the impact of promotional activities is not reduced or adversely affected by policies implemented by the Superintendent.

Summary of Panel's Recommendations and Position:

DC plan sponsors should determine what investment choices are offered to employees, keeping in mind the following requirements:

- *There should be a default investment option for those employees who do not select their investment option;*
- *The options offered to employees by the sponsor should be chosen prudently;*
- *There should be good communication to the members about the investment choices available;*
- *The sponsor should document the rationale for the investment array and file it with the Superintendent. Legislation should permit default enrolment and default investment mix selection but should not attempt to specify what is an acceptable investment mix.*

We agree with the above recommendations. However, the requirement to file the rationale for the investment array with the Superintendent seems unnecessary. Such document could rather be made available to plan members for consultation.

3.2 Province Wide Plan

Summary of Panel's Recommendations and Position:

The Province of Nova Scotia should support the establishment of plans available to all employers in the province, administered by an independent agency:

- *The Plan the Committee recommends would provide an Adjustable Contribution / Benefit and/or Defined Contribution plan options for employers of any size in the Province of Nova Scotia. It would be open to any employers who want to participate.*
- *A particular benefit and funding version could be constructed for municipalities in consultation with them. It would not be mandatory.*
- *Consideration should be given to requiring all employers above a certain size who do not already have a plan to participate in the province wide plan unless they opt out.*

The provincial agency would be responsible for the pooling of administration and investments, but would not be responsible for the funding risks, nor for any costs to administration or investment management.

We support offering more pension coverage options. Accordingly, we do not object to implementing a province-wide pension plan, provided that:

- Participation is optional;
- Investment decisions are made and plan governance is performed without political influence and in the best interest of plan members; and
- Efforts spent on the implementation of this plan do not reduce efforts spent on creating a more favourable environment for the creation, maintenance and improvement of occupational pension plans. A province wide plan should not be seen as a panacea for declining pension coverage.

British Columbia has recently announced its intention to implement a province-wide DC plan. We suggest that the Canadian jurisdictions harmonize their efforts in implementing such plans in order to make them more appealing to multi-jurisdictional employers and to apply best practices in design, administration and governance.

3.3 Funding

3.3.1 Amortization

3.3.2 Surplus (amortization)

Summary of Panel's Recommendations and Position:

- *Tests of funding adequacy must value for all promises made.*
- *The present solvency funding and going concern measurements should not be required for regulatory purposes. Funding requirements would be based on an Accrued Benefit measurement.*
- *On wind-up, plans have to fully fund the benefits promised.*
- *The rules for minimum funding should be the same for all pension plans subject to the Pension Benefits Act.*
- *No benefit improvements should be allowed if the plan is in deficit.*
- *Deficits should be amortized over a maximum of 8 years and surplus should be amortized over a minimum of 8 years.*
- *A "collar" of 5% should be provided. Any deficit over the 5% collar must be amortized and any surplus up to the 5% collar cannot be amortized.*
- *Actuarial valuations are to be done on a fixed three year schedule. Annual tests will be required for plans whose deficits are greater than the 5% collar.*

Unfortunately, the tight deadline for responding to the Position Paper did not allow Towers Perrin to perform an extensive analysis of the above proposed funding regime. Nevertheless, we wish to submit the following comments:

- We appreciate the Panel's efforts to develop a simple funding regime. However, if adopted, this regime would be unique in Canada. Before implementing such a regime, we suggest that Nova Scotia consult with the other Canadian jurisdictions in order to achieve a high level of uniformity in funding standards. The

implementation of a unique funding regime would cause confusion for employers who sponsor pension plans registered in several jurisdictions. It would also require actuaries to modify their valuation programming and reports in order to accommodate these distinct rules, thereby causing an increase in actuarial fees.

- Subject to the harmonization recommendation, we support the “collar” concept. However, we suggest that the application of collar rules not be based on a cliff principle in order to avoid significant fluctuations in required contributions. For example, if the plan’s deficit exceeds the collar (e.g. 5%), the rules should require the amortization of only the portion in excess of the collar, not the full deficit. Otherwise, there could be a significant difference in required contributions for a slight variation in the plan’s funded ratio (e.g. 94.9% vs. 95.1%).
- We are not sure that, over the long run, the Panel’s proposed regime will reduce volatility in required contributions. If a cliff approach is used for the application of the collar concept, there is a significant risk of increased contribution volatility. Moreover, the Accrued Benefit measurement may not produce higher benefit security.
- The details of the Accrued Benefit measurement would have to specify how special benefits (e.g. plant closure) would be treated.
- For DB plans other than ACB plans, Towers Perrin does not support restrictions on benefit improvements based on the plan’s financial position. The potential issues related to benefit improvements made shortly before the wind up of a plan of an insolvent employer can be handled by appropriate rules on the priority of payment of benefits upon wind up, like those that currently exist in Quebec. Should Nova Scotia nevertheless decide to implement the above restriction on benefit improvements:
 - the rule should allow benefit improvements for a plan in a deficit position if the employer pays immediately the full cost of the improvement; and
 - it should be clear that such restriction does not apply to Nova Scotia members of a plan registered in another Canadian jurisdiction.
- Despite the fact that Nova Scotia funding rules may require using only an Accrued Benefit measurement, we understand that the current actuarial standards would nevertheless require measuring the plan’s financial position on going concern and wind up bases as well. Before imposing an Accrued Benefit measurement, Nova Scotia should wait for the actuarial standards to be amended to accommodate the use of this measurement in lieu of the other two currently required. The disclosure of three different sets of valuation numbers would have a high risk of creating confusion for users of pension actuarial valuation reports.
- For the purposes of the annual actuarial tests, the actuary should be allowed to reflect any excess of the actual contributions made by the plan sponsor since the last actuarial valuation over the minimum required level. Alternatively, such excess could be treated as pre-paid contributions, similarly to the concept of “prior year credit balance” existing in the Ontario pension regulations.

3.3.2 Surplus (distribution)

Summary of Panel's Recommendations and Position:

- *Surplus distributions are not allowed before plan wind up.*
- *Upon plan wind up, the plan sponsor can make the allocation of surplus, subject to:*
 - *the plan rules;*
 - *the impact of collective bargaining;*
 - *the sponsoring employers receive no more than 50% of the surplus; and*
 - *it must result in the employer(s) having paid at least 50% of the net contributions over the previous 10 years.*

In section 3.3.2 of the Position Paper, the Panel recognizes that plans are often minimally funded due to the uncertainty of surplus use and ownership. The implementation of the above rules would increase such uncertainty and would push more employers to adopt minimal funding policies that reduce the likelihood of a surplus developing.

As mentioned earlier, we strongly believe that a primary objective of pension reform must be to create a much more favourable environment for the creation, maintenance and improvement of occupational pension plans. We support measures aimed at providing reasonable assurance to the plan members that their pension promises will be honoured. Unfortunately, the impact of the above surplus rules would move in the opposite direction of meeting these two primary objectives. Employers will continue to be discouraged from maintaining DB plans if the risk/reward deal is unfair, and more plans would generally be minimally funded thereby decreasing benefit security.

Please refer to the key suggestions made in our July 2008 submission, which were aimed at achieving these two primary objectives.

3.4 Grow-in Benefits

3.5 Partial Wind-ups

Summary of Panel's Recommendations and Position:

- *Governments should permit, but not require, grow-in benefits.*
- *The notion of partial wind-ups should be eliminated from the legislation.*
- *If the withdrawal of a commuted value occurs while the plan is in deficit, the sponsor will be responsible for making up the deficit that was associated with the departing employee.*

We support the elimination of grow-in only on full or partial wind up because it inappropriately creates winners and losers and it brings lack of predictability to the cost of pension funding. Moreover, we see no reason why an employee involuntarily terminated should receive less generous benefits because the termination did not occur in

connection with a general downsizing or business closure. We also question whether it is equitable or appropriate to provide different benefits to members who terminate voluntarily as compared to those who terminate involuntarily, particularly in view of the fact that involuntarily terminated employees often receive salary continuance and/or severance pay under collective agreements, employment standards legislation, and common law rules

We also support the elimination of partial wind ups.

Considering the nature of ACB plans' financial deal, we believe that it would be inappropriate to require employers participating in an ACB plan to be responsible for making up any deficit associated with departing plan members.

3.6 Unlocking

Summary of Panel's Recommendations and Position:

- *For DC plans:*
 - *members before age 60 can unlock their voluntary contributions, unless the plan is more restrictive;*
 - *after age 60, full unlocking is permitted; the plan may include restrictions but must permit annuitizations in whole or in part.*
- *For DB plans, no changes to current locking-in regime, except that up to 50% of the commuted value could be unlocked; the plan could have stricter rules.*
- *Unlocking rules based on hardship issues should be removed from the legislation.*

In our opinion, pension plans must, at the discretion of the plan sponsor, continue to be allowed to lock-in benefits during, as well as after, employment with the participating organizations. The above proposals seem to satisfy this concept.

3.7 Governance

Summary of Panel's Recommendations and Position:

- *All pension plans must file a copy of their governance plan with the Superintendent.*
- *The governance plan must be adopted by the plan administrator and circulated to the advisory committee, union, or employees, as appropriate.*
- *The Superintendent may reject the governance plan if it does not meet the generally accepted practice in the pension industry.*
- *The plan administrator must certify annually that the governance plan is being complied with.*

We are reasonably confident that most plan sponsors and administrators, with the assistance of advisors, have implemented a governance plan and structure that allows an appropriate management of the pension risks, at a reasonable cost. We observe that the development and maintenance of a prescribed governance plan will entail some work and expenses that may be unreasonable for certain small or medium-size plans.

Should a governance plan requirement be implemented, we suggest that the governance plan not be subject to the Superintendent's examination. We note that the examination of governance plans for all plans would require significant resources from the office of the Superintendent that could be better used on risk-based monitoring activities. Governance plans, if required, could be treated by pension legislation in a manner similar to statements of investment policies and procedures.

3.7.1 Advisory Committees

Summary of Panel's Recommendations and Position:

- *Advisory committees should remain voluntary, but they should be given greater ability to influence sponsors and regulators.*
- *They should be given, simultaneously, any information the sponsor files with the Superintendent, subject only to privacy laws.*
- *They should be entitled to have reasonable access to plan actuaries and other professionals, so that they can communicate with them independent of the sponsor.*
- *The plan would be responsible for funding the costs associated with consulting professionals.*
- *The Superintendent's approval of a plan amendment would be simplified if the amendment was agreed to by the advisory committee.*
- *Training and providing support to advisory committees should be part of a mandate of a division within the Department of Labour and Workforce Development.*

We agree with the position that advisory committees remain voluntary. The Superintendent or another government body could promote the establishment of advisory committees by means of regular communications to plan administrators about the benefits of having an advisory committee.

We believe that the recommendations mentioned in section 3.7.1 wrongly refer to "sponsors". They should rather refer to "plan administrators" as we believe that the role of an advisory committee should be limited to how the plan is managed and administered. The mandatory duties of an advisory committee should not include influencing the plan's design, benefits and contribution level.

Because the plan administrator has fiduciary duties toward plan members, the plan administrator must be the only body having the power to authorize work performed at the expense of the pension plan. Without restrictions on the access to the firms and individuals providing services to the plan, and on their work products, there would be significant contractual issues. For example, in many situations, services are provided on fixed-fee basis and

contractual arrangements do not provide for the possibility for performing work at the request of a third party. For these reasons, any access to the plan's professionals and service providers must be authorized by the plan administrator, and these professionals and service providers should not be forced to provide any services to an advisory committee.

The advisory committee's access to documents filed with the supervisory authorities and other documents related to the plan administration (e.g. governance plan, statements of investment policies and procedures, statements issued by the fund custodian, reports from investment managers, benefit statement templates) would suffice to fulfill its mandate.

We observe that an advisory committee's approval of a plan amendment does not seem to provide much additional comfort justifying a simplified examination procedure by the Superintendent. We further submit that the Superintendent should in any case apply a simple examination procedure for all plan amendments, subject to certain exceptions (e.g. reducing amendments, plan conversions). We understand that most pension regulators in Canada have adopted simple examination procedures.

3.8 Role of Regulators

Summary of Panel's Recommendations and Position:

- *The Pension Benefits Act (PBA) should be changed to require that appeals from the Superintendent's decision be made to Nova Scotia Labour Relations Board (NSLRB).*
- *The NSLRB would have jurisdiction to consider all orders decided by the Superintendent without deference to the Superintendent.*
- *The NSLRB can make any decision the Superintendent can make.*
- *Appeals of the NSLRB would be to the Nova Scotia Court of Appeal.*
- *Plans exclusively for "Connected Persons" should be exempt from regulation under the PBA.*

We agree with the above recommendations. However, we believe that appeals from the Superintendent's decision be made to a tribunal other than the NSLRB. The NSLRB deals mainly with labour-employer disputes and may lack expertise in pension matters, especially where they have to be examined in a non-unionized context. A pension plan tribunal dedicated solely to adjudicating pension disputes, including appeals of proposed Superintendent's decisions or orders, would be a better alternative. Due to its specialized expertise, decisions of a pension plan tribunal should be protected from appeal and judicial review by a strong privative clause in the PBA. This will have the effect of reducing costs and delays associated with obtaining final resolution of pension disputes.

3.9 Harmonization

Summary of Panel's Recommendations and Position:

Nova Scotia legislation should provide that the province where the plan is administered can regulate Nova Scotia employees in accordance with the rules in the province where the plan is administered.

Even though the Panel's recommendation would simplify the administration of most pension plans with Nova Scotia members, we observe that it is not in line with the proposed agreement recently issued by the Canadian Association of Pension Supervisory Authorities (CAPSA) respecting multi-jurisdictional plans. We suspect that it will be difficult to convince the other Canadian jurisdictions to adopt the principle recommended by the Panel.

Towers Perrin strongly believes in the benefits of harmonization of pension legislation in Canada. Such benefits far exceed any disadvantages of increased harmonization. We understand that the different jurisdictions would like to maintain their law-making independence, but we don't support that each of them approaches pension issues (which are basically the same across Canada) with their own unique solution.

3.10 Safe Harbour

Summary of Panel's Recommendations and Position:

- *To put "safe harbour" rules in place would be impractical and harmfully prescriptive.*
- *In the case of DC plans, plan sponsors should prudently establish default investment option and contribution rates.*
- *DC plans should be required to provide to employees each year a statement of what pension they can expect to receive under several investment return and interest rate scenarios.*

The concept of "safe harbour" is not intended to provide a defence against all claims of breach of fiduciary duty in common law, trust law or contract law. Rather, "safe harbour" is to provide a defence to a claim of breach of statutory duty. We believe that it is possible to develop and implement practical safe harbour rules that would not be prescriptive.

We note that members of DC plans often have difficulty in deciphering their periodic statements. We suggest that the Panel consider recommending prescribed rules for the content of periodic DC benefit statements to ensure clarity of disclosure to DC plan members regarding investment choices, account balances and fees. The Panel may also wish to consider recommending that annual benefit statements be required to contain an estimate of the retirement income that could be provided by a member's account balance at the plan's earliest and normal retirement ages in order to help DC pension plan members assess whether they are achieving their retirement income goals. The conversion basis to be used to provide estimates of retirement income should be prescribed and should make reference to actuarial standards. We do not recommend that statements be required to provide

estimates based on "several investment return and interest rate scenarios ". This would add complexity to member statements, increase the cost of producing statements, and could defeat the purpose of increased disclosure.

If a requirement to provide an annual statement of what pension DC plan members can expect to receive under several investment return and interest rate scenarios is implemented, the regulations should specify the assumptions, methods and scenarios that must be used by plan administrators. Moreover, this would be an area where "safe harbour" protection would be essential.

3.11 Phased Retirement

Summary of Panel's Recommendations and Position:

- *The legislation should not prevent the accumulation of new benefits while receiving a pension.*
- *There would be appropriate actuarial adjustments where needed to recognize the later receipt of the deferred and additional pension benefits.*

We encourage Nova Scotia to amend its pension legislation in order to take full advantage of the additional flexibility permitted by the recent modifications to the tax rules with respect to phased retirement. Such amendments were rapidly adopted in Quebec. We expect that British Columbia and the federal government (with respect to federally-regulated plan members) will soon adopt phased retirement amendments to their pension legislation. These amendments are quite simple and do not necessitate the use of "actuarial adjustments" provisions.

3.12 Vesting

Summary of Panel's Recommendations and Position:

Vesting in a plan should be immediate.

Towers Perrin supports the concept of effective vesting for DB plans so that pension accrued for a given year retains its value even on pre-retirement termination. However, immediate vesting would, in practice, cause additional administrative expenses for pension plans, in particular those with high employee turnover. For DB plans, we would support immediate vesting if part of a balanced package of measures that would include the elimination of the partial wind up concept.

3.13 Classes

Summary of Panel's Recommendations and Position:

- *The list of acceptable classes of employees should be removed from pension legislation.*
- *Employers should be allowed to make their own decision on classes of employees, and benefit design for each.*
- *The classes should be reasonable and sponsors would be required to file the classes with the Superintendent.*

- *The Superintendent would have the power to take appropriate action to rectify the situation if the Superintendent considers a class arbitrary and unreasonable.*

We support the recommendations. However, we suggest maintaining a list of acceptable classes in pension legislation. Such list provides assurance to all stakeholders as to what classes would be acceptable without requesting the Superintendent's authorization. In the absence of such list, we expect that the Superintendent's workload would increase due to the examination of numerous applications, and having to respond to questions, in connection with the acceptability of a class of employees.

3.14 Access to Information

Summary of Panel's Recommendations and Position:

- *Where Advisory Committees do not exist, everything that a sponsor files with the Superintendent should be provided simultaneously to employees via a place where the information can be easily accessed in both paper and electronic format.*
- *The Advisory Committee or Trustees of a joint Employer-Employee Trusteed Plan must make all information available to the members.*

We believe that the recommendations mentioned in section 3.14 wrongly refer to "sponsor". They should rather refer to "plan administrator" as the filing requirements of Nova Scotia pension legislation apply to the plan administrator.

Disclosure of information that an administrator files with the Superintendent that may reasonably be regarded as commercially sensitive or that contains personal information should not be required to be disclosed to members.

Please refer to our comments in section 3.7.1 with respect to the role of advisory committees and their rights to information.

3.15 Promotion

Summary of Panel's Recommendations and Position:

- *Promotion of pension plans should be a function of the Department of Labour and Workforce Development, separate from the Superintendent's office.*
- *The promotion of the proposed province wide plan and the training materials and programs in support of Advisory Committees could be a part of the mandate of such a promotion division.*

Please refer to our comments in section 3.1.1.

3.15.2 Investments

Summary of Panel's Recommendations and Position:

- *The governance process should be strengthened.*
- *Specific investment limits should be removed.*
- *Schedule I to the PBA Regulations should be expanded and should include a separate section on the investment of DC plans and other types of plan where the member is involved in investment decisions which will affect his/her own pension.*
- *Schedule III to the PBA Regulations should be removed.*

The Panel recommends the strengthening of the governance process, without mentioning specific implementation measures. We support sound plan governance. However, plan sponsors and administrators should have sufficient flexibility to develop governance models that reflect their own unique circumstances, needs and risk tolerances. Moreover, we support the continuance of guidelines, periodically updated as appropriate, by CAPSA with the concurrence of all of the pension regulators. We would not encourage individual pension regulators to make the leap from guidelines to statutory provisions.

We support removing specific investment limits and implementing simple investment standards that are better adapted to DC plans and other types of plan where the member is involved in investment decisions that will **directly** affect his/her own pension.

D. Final Word

We applaud the significant work performed by the Panel that led to the publication of the Position Paper. We congratulate the Panel for its decision to gather comments prior to the preparation of its final recommendations.

In the current context, we feel that any pension reform proposal must first and foremost be evaluated in terms of whether they meet the following primary objectives:

- The creation of a much more favourable environment for the creation, maintenance and improvement of occupational pension plans in the interest of increasing pension coverage and retirement income adequacy, particularly for private sector workers;
- The clarification and fulfillment of pension promises: The pension “deal” should be clear to both a plan’s sponsor and members. Also, regulation cannot guarantee that pension promises are met, but it should create a framework that maximizes this possibility at a supportable cost.

We believe that, in aggregate, the implementation of the recommendations contained in the Position Paper would not have a positive impact in achieving these objectives. The Position Paper does propose highly positive measures (e.g. elimination of partial wind ups, amortization of surplus for contribution holidays). However, its recommendations with respect to surplus distribution would discourage even more employers from maintaining defined benefit pension plans, and would further reinforce minimum funding strategies. These outcomes would be unfortunate and not be in the best interest of Nova Scotians.

We urge the Panel to revise its tentative recommendations before issuing its final report so that their implementation would meet the primary objectives identified above. We believe that inclusion in the Panel’s final report of the recommendations outlined in our July 2008 submission would constitute a significant step in this direction.