



May 3, 2018

Variable Benefits Regulations  
Pension Policy Branch  
Ministry of Finance  
5th Floor, Frost Bldg S.  
7 Queen's Park Crescent  
Toronto, ON M7A 1Y7

To Whom It May Concern:

**Re: Description of Proposed Regulations to implement Variable Benefits Proposal 18-MOF013**

We are pleased to provide our comments with respect to the outline of proposed regulations under the Pension Benefits Act (Ontario) ("PBA") to implement variable benefits for defined contribution pension plans dated March 20, 2018.

The Association of Canadian Pension Management (ACPM) is the leading advocate for plan sponsors and administrators in the pursuit of a balanced, effective and sustainable retirement income system in Canada. We represent plan sponsors, administrators, trustees and service providers and our membership represents over 400 companies and retirement income plans that cover more than 3 million plan members.

We generally support the outline of the proposed regulations. Our questions and comments follow.

We note that there is no 50% unlocking at the time of transfer to the variable benefit account. In order to be consistent with the general permissibility of 50% unlocking that is available at the time of transfer to a life income fund, there should be similar unlocking available on transfer to the variable benefit account.

The proposed annual statement to the retired member or specified beneficiary, as applicable would include the "net income" of the account in the year. The term "net income" is not used in the PBA or O. Reg. 909. We are hopeful that Ontario is not considering introducing a new calculation for plan administrators and their service providers and, instead, that "net income" is intended to be the same as "accumulated investment earnings" as used in Schedules 1 and 1.1 pertaining to life income funds.

The inclusion of variable benefits in a pension plan is optional and, if added, entails more work for the administrator. Experience in other jurisdictions indicates that relatively few plans offer variable benefits. Ontario could consider how it can make the inclusion of variable benefits more attractive to plan sponsors. A principles-based discharge of the administrator's liability based on regulatory guidelines should be provided upon the transfer of a member's account to a variable DC account. We understand that CAPSA is currently working on guidelines for decumulation. We expect that they will include best practices for variable benefit accounts. When the guidelines are finalized, it will be appropriate for Ontario to look to the guidelines for the principles that would form the basis for a statutory discharge to the administrator for transfers from a member's account to a variable DC account.

Similarly, Ontario may want to consider that a variable benefit account is, for a retired member, an alternative to a life income fund. As such, the statutory obligations of the administrator of the pension plan that provides a life income fund should be no more onerous than the statutory obligations on the provider of a life income fund.

The variable benefits provisions are intended to apply only to defined contribution pension plans. However, we are aware of administrators of defined benefit pension plans who are interested in offering this type of benefit as an option for the additional voluntary contribution accounts their plans contain, subject to any necessary changes under the Income Tax Act (Canada) to accommodate such an arrangement. We kindly request that the government consider expanding the application of these provisions to defined benefit plans.

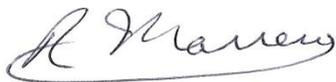
Finally, a spousal waiver of the joint and survivor pension is required on transfer to a variable benefit account (PBA s 39.1(2.1)). While other jurisdictions that permit variable DC benefits also require a waiver in the same circumstances, in Ontario there is no similar waiver required on transfer of an account balance to a locked-in retirement savings vehicle. We acknowledge that the requirement for a spousal waiver arises under the PBA and not under the proposed regulations. However, while the requirement creates consistency with other jurisdictions who have introduced variable DC benefits, it creates an inconsistency within the Ontario statutory scheme by introducing a new regulatory requirement that does not apply to other transfers out of DC plans. Spousal issues and waivers in particular have often been a source of liability for Ontario plan administrators, and this new requirement may be perceived by plan sponsors as another reason not to offer variable DC benefits.

**Conclusion**

The introduction of variable benefits means that retirees can access the economies of scale of employer plans as well as those plans' curated investment selections. While variable benefits are a step in the right direction, they leave other fundamental issues unresolved. In particular, variable benefits do not pool investment risk and do not pool mortality risk, thereby leaving those issues to another day. We hope that Ontario will look to address those issues soon.

We appreciate the opportunity to provide comments and trust that they will be useful to you.

Sincerely,



Ric Marrero  
Interim CEO  
ACPM