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Subject: Comments on the Proposed Amendments to the Pension Benefits Standards Regulations, 1985

ACPM is the leading advocacy organization for plan sponsors and administrators in the pursuit of a balanced, effective and sustainable retirement income system in Canada. We are the voice of retirement plan sponsors, administrators and trustees in both the private and public sectors and our membership represents retirement income plans that cover millions of plan members.

The ACPM is writing to provide comments on the proposed amendments to the *Pension Benefits Standards Regulations, 1985*, as published on November 2 in the Canada Gazette, Part I, Volume 158, Number 44. The amendments would prescribe the types of information (e.g. jurisdictions and categories of plan assets) that must be disclosed by the Office of the Superintendent of Financial Institutions (OSFI) on the investments of federally regulated pension plans with assets under management greater or equal to $500 million, retroactive to 2022.

We have several concerns regarding the scope and implications of these amendments. Our comments refer to defined benefit pension plans, except where defined contribution plans are explicitly mentioned.

Transparency

The stated objective is to improve the transparency of pension plans by publicly posting the distribution of investments. While transparency is generally a worthy objective, increased levels of it do not necessarily benefit the public. In order for increased transparency to have a positive effect, it must meet a public need, for which little or no justification has been provided.

In our view, if transparency of pension plan asset investments by geographical region and asset class is deemed to be in the public interest, it would be better achieved by one or more of the following approaches:

- Providing clear disclosure to plan members via existing mechanisms such as the annual statement.

- Collecting relevant aggregate data for all Canadian pension plans via existing Statistics Canada mechanisms to measure the current state as well as the impact of any future policy changes designed to encourage investments in Canada.
- Where applicable by securities regulations, continuing disclosure via company (plan sponsor) financial statements, which are audited and contain relevant facts and commentary.

It is the ACPM's view that transparency is not achieved through simplistic public disclosure by employer, due to a lack of defined terms and a rushed implementation, and more critically a lack of explanatory narratives.

Plan member perspective

In the ACPM's collective experience, plan members' biggest concerns are their benefit entitlements and the security of their pensions. Members rarely express concerns with the extent to which their pension plans are invested outside Canada – or how they are invested at all – as the plan sponsor bears the risk. Therefore, we do not agree that members are looking for the additional transparency the proposed regulations attempt to achieve (to "help plan members and retirees to better understand where their pensions are being invested").

To the extent that members do find this information useful, it does not seem fair that only members of the largest pension plans would have access to it, or that members must go to an external source to seek it out. It would be more practical and cost-effective to include a breakdown of each plan's investments by broad geographical region on the member's annual statement in lieu of a more public disclosure.

Regulatory inefficiency

Plan investment data is already available through several sources:

- Federally regulated pension plans are required to file audited fund statements containing detailed information on plan investments and are subject to rigorous audit standards. Statements are filed with OSFI and available to any plan member.
- Plan member annual statements already contain investment information including target asset mix and top 10 investments.
- Statistics Canada collects aggregate data for all pension plans, albeit with slightly different geography breakdown than proposed in this regulation but available quarterly.
- OSFI itself collects data by geography.

Plans are currently entering related, but not identical, investment data in two places: StatsCan, and the OSFI60 form. The proposed regulations would add a third way of asking for the asset breakdown between domestic and foreign investments. Even if one or both of the existing approaches are modified, the additional disclosure requirements fall outside existing data collection mechanisms; therefore, there is additional cost and administrative burden to collect this information, further exacerbated by retroactive compliance to 2022.

The ACPM's position is that data that is made available to the general public (outside of plan beneficiaries) is best collected in aggregate via Statistics Canada. The 2023 Fall Economic Statement tied the increased transparency to the federal government's efforts to identify more opportunities for investments in Canada by Canadian pension funds. The starting point should be robust data collection via Statistics Canada that can identify the current state as well as measure the subsequent impact of policy changes directed at encouraging investments in Canada.

The ACPM is aware that federally regulated pension plans have already been approached by OSFI to submit their data for 2022 and 2023 by January 31, 2025. Such a request coming at this time with such a short timeframe calls into question the authenticity of the current consultation process. The ACPM would expect that plan sponsors will be given at least three months to comply with any new reporting regulation once it comes into force.

Standardization of data

The issues identified in the Regulatory Impact Analysis Statement focus on publicly disclosed information not being standardized. However, the format of the proposed disclosure itself is non-standard, and we urge Finance to consult with industry on a process for defining and obtaining the information, definitions, and geographic categories in meaningful ways, should the disclosure proceed:

- A look-through to the geographic location of an asset is not always easy to obtain – for example, ascertaining the location of separate infrastructure investments in a global fund, or determining the domicile of a stock that is listed in more than one country. It is highly unusual to release such information publicly without an external audit review and with no opportunity to provide explanatory comments.
- disclosure for derivatives and complex investments could vary substantially depending on such definitions. For example, a bond overlay could be reported as a differing combination of bonds, short-term assets and other assets (such as derivatives) for a policy of the same underlying economic value, depending on the definitions and implementation structure.

Comparing investments between employers

The issues identified in the Regulatory Impact Analysis Statement also cites the lack of standardization as "making it difficult to compare the distribution of investments between pension plans". Each pension plan is required to undertake its own analysis of an appropriate investment mix.

The Canadian Association of Pension Supervisory Authorities (CAPSA) Guideline for Risk Management for Plan Administrators states:

> "*Identifying the categories and level of investment risk that the plan administrator is willing or expected to take in order to meet the pension promise ensures that the plan's statement of investment policies and procedures (SIP&P) and investment strategies are consistent with the plan's objectives and overall risk appetite*."

CAPSA’s Pension Plan Prudent Investment Practices Guideline states:

> *“The investment policy reflects the investment objectives of the pension plan.”* and *“Asset allocation should reflect the characteristics of the pension plan’s liabilities, demographics and risk tolerances. Decision makers should consider a full range of possible investment opportunities.”*

Note that asset class allocation is more important than geography when constructing an appropriate portfolio.

By publicly posting investment mixes, both by asset class and geography, without any fulsome disclosure of the pension plan’s characteristics, the government is encouraging the simplistic comparison of asset allocations without adequately capturing the complexity of a pension fund's risk management and investment decision-making processes. That plans of the same employer are commingled further illustrates that the fiduciary duties are disregarded in the proposed regulations, as those duties apply on a plan-by-plan basis. As a result, the goal of transparency is not effectively met.

To the extent that members of the public will take note of the new disclosures, the ACPM is extremely concerned that such information will be taken out of context or used to pressure plan administrators to make changes to their investment allocations, which could conflict with their existing fiduciary duties to plan members.

Encourage alignment with Canada’s provinces first, to ensure common disclosure across all plans in Canada

Regulatory inefficiency is further exacerbated by the requirement that only federally regulated pension plans must comply. Federal pension plans account for only 7% of all pension plans in Canada. Even with 90% of federally regulated plan assets being required to report, such a small sample size will not yield a credible baseline or actionable data. It would be more effective to align to a common disclosure standard with the provinces first before mandating federal plan compliance (if disclosure by plan is pursued vs aggregate reporting through Statistics Canada).

Alignment with the provinces is by no means assured. Ontario's Finance Minister, representing the largest province in Canada, has emphasized the fiduciary responsibility of pension funds and their proven track record of effective investment on behalf of members, and has maintained that the government should focus on creating a more attractive investment environment in Canada. Ontario Finance Minister Peter Bethlenfalvy told The Logic’s editorial board “I’m not keen on prescriptive directives to invest more in Canada.”[1]

It is important to recognize the jurisdictional differences and the existing regulatory frameworks at the provincial level. If this information is needed to a greater degree of granularity than exists today, we would encourage Finance to work with its provincial partners to reach a consensus before requiring federal plans to expend time and effort complying with new processes.

[1] “*Ontario finance minister rejects idea to mandate Canadian pensions to invest at home*”, by Catherine McIntyre, November 19, 2024

Defined contribution plans should be exempt from reporting

ACPM strongly recommends that member-choice defined contribution pension plans be exempt from these legislative requirements, as they already are with annual statement investment allocation requirements. In most defined contribution plans, members make their own investment choices, and the transparency of individual investment decisions is inherently maintained through the information provided to the members. Imposing additional disclosure requirements will lead to increased administrative complexity and costs.

Conclusion

In conclusion, leveraging existing data collection mechanisms through Statistics Canada and ensuring a standardized, comprehensive disclosure format would better serve the objective of transparency. An approach that respects the fiduciary responsibilities of plan administrators and the autonomy of plan members in defined contribution plans would be more appropriate.

Sincerely,

Korinne Collins

Chief Executive Officer, ACPM