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The Association of Canadian Pension Management
L'Association canadienne des administrateurs de régimes de retraite

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ACPM Response to the Alberta Treasury Board and Finance Consultation Paper on the Private Sector Pensions Review

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FOREWORD

ACPM (THE ASSOCIATION OF CANADIAN PENSION MANAGEMENT)

ACPM is the leading advocacy organization for a balanced, effective and sustainable retirement income system in Canada and our membership manages retirement plans for millions of plan members.

ACPM believes in the following principles as the basis for its policy development in support of an effective and sustainable Canadian retirement income system:

Diversification through Voluntary / Mandatory and Public / Private Options
Canada's retirement income system should be comprised of mandatory public programs ("First and Second Pillar") and an appropriate mix of voluntary workplace and individual savings arrangements ("Third Pillar")[1].

Empowering Choice in Coverage
Third Pillar arrangements should be encouraged and play a meaningful, ongoing role in Canada's retirement income system.

Harmonization
Canada's pension legislation should always strive for better harmonization across jurisdictions.

Adequacy, Security and Affordability
The components of Canada's retirement income system should ensure a healthy balance between these three objectives to enable Canadians to receive adequate and secure retirement incomes at a reasonable cost and in an efficient way for individuals and organizations.

Innovation in Plan Design
Canada's retirement income system should encourage and facilitate innovation in plan design in all three Pillars.

Adaptability
Canada's retirement income system should be able to adapt to changing circumstances without the need for comprehensive legislative changes.

Clarity and Transparency
Legislation, regulations and retirement income arrangements should be clearly defined and pension plan beneficiaries should be appropriately informed of risks, costs and benefits.

Good Governance
Excellence in governance and administration in the retirement income system

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[1]Pillar 1 - Canada Pension Plan (CPP) or Quebec Pension Plan (QPP)
Pillar 2 - Old Age Security (OAS) and Guaranteed Income Supplement (GIS)
Pillar 3 - Employer-sponsored pension plans and personal savings and investments

INTRODUCTORY COMMENTS

FUNDING RULES REQUIRE REBALANCING

ACPM believes the current defined benefit pension plan funding requirements do not represent an appropriate balance between member benefit security, and the sustainability and affordability of defined benefit (DB) pension plans.

Due to the extreme decrease in interest rates and resulting increase in solvency liabilities, the solvency pendulum has swung too far towards benefit security at the expense of the wellbeing of the plans and plan sponsors themselves. By taking a longer-term view of DB plan funding, pension legislation has been adapted in other pension jurisdictions (British Columbia, Manitoba, Ontario, Quebec, Nova Scotia and New Brunswick) to reflect the important role of those few plan sponsors who continue to provide DB plans.

We suggest that funding rules should facilitate a reasonable and appropriate level of risk sharing between plan sponsors and plan members.

WHY THE STATUS QUO MUST CHANGE

When solvency funding rules were first designed in the 1980s, coincidental with the introduction of portability rules in pension legislation, their primary objective was to protect plan members' benefits in the event of plan termination. This benefit security was to be achieved by requiring additional employer contributions to the plan (over a 5-year horizon) if a solvency test, required to be conducted at each actuarial valuation, revealed a deficit.

Unfortunately, the theory behind solvency funding rules has not turned out as well in practice as was hoped. When solvency funding rules came into effect, it was probably never contemplated that solvency valuations could result in a measurement of liabilities that far exceeds the going-concern liabilities, but that is what has occurred. Corporate plan sponsors with otherwise healthy balance sheets are being put into difficult financial situations because of the higher capital and the shorter term funding requirements of their pension plans, resulting in repeated rounds of solvency relief granted by governments. As DB pension plans mature in a low interest rate environment, "as and when needed" exemptions and "temporary" funding relief measures have become a band-aid solution.

ACPM believes that this situation presents an opportunity to re-think solvency funding – a funding measure from which "relief" has been granted at the bottom of nearly every economic cycle and market shock since its inception in the 1980s, in economic circumstances that differ greatly from the current persistent low long-term interest rate environment (despite the recent uptick in interest rates). We urge similar measures to what other pension jurisdictions either have already adopted or are in the process of adopting. Key measures would include funding based on a going-concern "plus" model and eliminating solvency requirements except for a minimal solvency ratio floor.

There are a number of unintended consequences of the current solvency funding rules:

I. Contribution Volatility – Due to the volatility of capital markets, the solvency funded positions of pension plans and the resulting contribution requirements can vary considerably from one valuation to the next. This makes annual budgeting, long-term planning and balance sheet management a difficult exercise, particularly at times when plan sponsors can least afford it. The recent sharp movements in inflation and interest rates are highlighting this volatility risk.

II. Share Price Uncertainty – Investors in entities that sponsor DB pension plans are uncertain as to how to value these entities and which measure of the pension obligation is considered a liability of the entity. Measurement uncertainty represents a potential overhang on market valuations of these companies and a potential obstacle to merger and acquisition transactions.

III. Terminating or Amending DB Plans – Corporate sponsors are walking away from the burden of solvency valuations by either amending plan provisions (e.g., elimination of post-retirement indexing) or by closing DB plans in favour of Capital Accumulation Plans (CAPs). These actions are often motivated by short-term solvency funding pressures, even when going-concern valuations indicate reasonably healthy funded positions. The recent introduction of single employer target benefit plans in legislation is a positive move that will help sponsors and members potentially find some common ground (although this would be greatly enhanced if retroactive conversion were permitted), but we still require a better measurement of the obligation than the solvency basis.

Many research papers have demonstrated that DB plans, or alternate forms of plans leveraging DB characteristics like target benefit plans (TBPs), Multi-Employer Pension Plans (MEPPs) and Jointly Sponsored Pension Plans (JSPPs), are a valued part of Canada's retirement income system as an efficient vehicle delivering pension benefits optimally. Funding rules should not create disincentives to sponsoring DB plans.

IV. Capital Drain – Requiring funding of solvency liabilities for plans that have sound going-concern funding ratios represents over-funding and potentially stranded capital as the contributions may not be able to be withdrawn when interest rates rise and such plans are in a solvency surplus. Furthermore, cash contributions due to solvency funding are often higher than other provinces that have eliminated solvency funding in favor of going-concern plus, thereby putting Alberta-based sponsors at a competitive disadvantage. While the introduction of solvency reserve accounts and alternative settlement methods (e.g., permitting the use of a fixed increase instead of a Consumer Price Index-related increase) for purposes of solvency funding have been beneficial to mitigate this impact, financially sound companies may still be borrowing to fund large cash injections into their plans or obtaining letters of credit to satisfy solvency funding requirements. Both represent potentially significant uses of capital that could otherwise be invested in a productive economy to fund future economic growth.

V. No Greater Benefit Security in Risky Plans – Plan sponsors that are unable to access capital markets to fund cash injections or to obtain letters of credit and are unable to meet solvency funding requirements are at risk of defaulting on these obligations. This could be placing companies that were already in a financially tenuous situation even closer to failure. With many past temporary solvency relief measures granted in various jurisdictions and special ad-hoc relief measures for some major Canadian corporations, the plan members who face the greatest risk of benefit security are not being protected by the very rules designed to protect them.

VI. Pressure on Interest Rates – Canada's position as a safe-haven country and its current monetary policies are said by some to be placing downward pressure on Government of Canada (GC) yields. Pension plans themselves are fueling the demand for GC bonds and exacerbating the solvency funding problem further. Pension plans, in an attempt to limit the consequences of volatility from mark-to-market accounting and solvency valuations, are investing plan assets in the very GC bonds that are used to value solvency obligations. Plans are also turning to annuity purchases, indirectly having the same effect on market yields. The cycle is adding to the overwhelming demand that is already driving interest rates lower. Locking in record-low yields to protect against further solvency volatility does not bode well for future recovery in the health of DB pension plans.

We acknowledge that bond yields have increased significantly in 2022, mitigating some of this pressure. However, looking forward, it is likely that the above fundamentals will still exert downward pressure on GC bond yields.

VII. Commuted Value Payments Harm Remaining Members – Plan members leaving before entitlement to immediate pensions are being paid commuted values at amounts that, if invested at rates closer to going-concern rates of return over the long-term, could deliver a better retirement income stream than the promised pension. It is inconsistent with the concept of risk pooling among plan members to calculate and pay commuted values at near risk-free rates to members who exercise portability while remaining members are exposed to risk. This is resulting in anti-selection risk and a transfer of plan value from members that remain in the plan to those that are leaving and, at the margin, reducing the benefit security of the remaining plan members. Minimum standards for commuted values should be more reflective of the underlying risk associated with the pension benefit and be aligned with the funding regime. Therefore, CV calculations should be revisited, including minimum standards that reflect the intent of portability and vesting concepts, as well as balancing the interests of departing and remaining members. ACPM would welcome the opportunity for further consultation on this topic.

CBMEP (COLLECTIVELY BARGAINED MULTI-EMPLOYER PLAN) CONSIDERATIONS

Similar to the solvency funding situation, the expected outcomes arising from the introduction of Provision for Adverse Deviation (PfAD) requirements for CBMEPs in Alberta and British Columbia have not evolved as expected. At their core, the PfADs were designed to ensure all additional benefit accruals were reasonably funded while promoting the build-up of adequate overall plan PfADs over time. For most CBMEPs, the implementation was anticipated to be reasonable and promote benefit security for all plan members.

The significant decline in bond yields perverted the expected outcomes, with the PfAD requirements potentially increasing risk for plan members. At the peak, prior to recent yield increases, many PfAD requirements were exceeding 30% and some were north of 40% of liabilities. While some relief has arrived in the form of increasing yields, the level of PfADs remain a deterrent to ongoing participation and support for the arrangements, even for plans funded soundly on a going-concern basis. This in turn exposes all plan members to greater risk as existing investment risk tolerances and return expectations will both decline if contributions are curtailed. While the details and mechanisms differ for pension plans that are not CBMEPs, the current economic realities for CBMEPs are the same and an appropriate balance between benefit security, sustainability and affordability should be assessed.

THE SOLUTION: A NEW FUNDING MODEL

ACPM believes Canada, and in particular Alberta, needs a long-term solution to DB plan funding rather than additional rounds of tinkering with existing rules. If we are truly seeking a better long-term funding model, we should be examining alternatives from the ground up – what are we aiming to achieve and is there a better way to get there than our current approach?

We are supportive of the review of funding rules that pursue the dual goal of sustainability (heavily influenced by contribution affordability and stability) and benefit security (as measured by the funded status on a wind-up basis).

The new funding model that ACPM recommends has four objectives:

i. To be clear to all stakeholders,
ii. To not increase the cost burden on plan sponsors,
iii. To be based on sound funding and risk management principles, and
iv. To be reflective of the long-term nature of DB pension plans.

Most of the issues we highlighted in the previous section relate specifically to traditional employer-risk DB pension plans. The first evolution in plan design to deal with these issues was the employee-risk CAP. There are also plan models that share risks (jointly sponsored, target benefit and shared-risk pension plans). For more recently implemented shared risk plans, the pension promise is being re-crafted, and sponsors and employees are going in with eyes wide open that either the pension benefit is not guaranteed or required contributions may increase solely to maintain the existing pension benefit.

With these types of plans, there seems to be little need for mandated solvency valuations. The stakeholders for these DB plans have the ability to define and manage their desired level of benefit security and risk exposure. Most such plans have adopted robust risk management frameworks that strive for a high probability of meeting the benefit obligations, including appropriate pension plan governance, structured policies that cover funding, benefits and investment policies, and clear frequent reporting to stakeholders.

ACPM therefore proposes replacing the current solvency and going-concern funding rules for DB plans with a new funding model, one that eliminates the need for solvency funding while requiring a PfAD. The new going-concern plus funding model would evaluate liabilities using discount rates that are based on long-term expected investment returns of the asset classes as reflected in the plan's investment policy, with adequate level of PfADs reflecting the plan's risk profile. This acknowledges that the pension promise is not without some recognized risks by all stakeholders.

We do recognize, however, that governments may desire to have a continued level of benefit security as an important element in designing a funding regime, such as a minimum solvency ratio test which would trigger additional contribution requirements if not met. If Alberta still requires this test, we would suggest reducing the level from the current 100% solvency ratio requirement as a reasonable compromise between the dual objectives of a pension funding framework.

OUR ANSWERS TO THE CONSULTATION PAPER QUESTIONS

SECTION 1 – FUNDING RULES

1) Private Sector Funding Rules (non-CBMEP)

Please share your thoughts on these funding requirements, which would apply to an ongoing pension plan (in other words, no changes are contemplated to the current requirement for a defined benefit plan to fully fund solvency deficiencies at plan termination):

- *Replace current solvency funding requirements with all of the following:*
    - *Reduce the minimum required level of solvency funding from 100 per cent to 85 per cent of solvency liabilities, reducing solvency payments. Plans with less than 85 per cent solvency would be required to amortize the deficiency over no more than 5 years;*
    - *Enhance going concern funding requirements by shortening the required amortization period for unfunded liabilities from the current 15 years to 10 years;*
    - *Permit any going concern deficit to be considered on a fresh start basis at each valuation in order to consolidate deficits and simplify contributions; and/or allow solvency deficiencies to be considered on a fresh start basis at each valuation;*

  and

    - *Require plans to fund to a level that is greater than the sum of a provision for adverse deviation (PfAD) plus the plan's liabilities calculated using best estimate assumptions before allowing any action that could weaken the plan's funded position (e.g., reduce contributions, increase benefits, or withdraw excess). The PfAD must also be included in the normal cost unless the going-concern funded ratio, including the PfAD, exceeds 105% or some other threshold.*

ACPM supports replacing the current funding requirements with the above measures. The lower solvency target of 85% and shortened going concern amortization period of 10 years provides a reasonable compromise between the objectives of a pension funding framework, and also promotes consistency with most other jurisdictions (i.e., British Columbia, Manitoba, Ontario, New Brunswick and Nova Scotia) that have adopted similar measures. Consolidating going concern and/or solvency deficiencies for each valuation (i.e., a "fresh start" approach) also simplifies the contribution requirements.

Our experience in other jurisdictions that have adopted similar funding reform measures is that plan sponsors/administrators have, generally, had a positive experience with these changes. The decrease in the solvency funding requirement to 85% of solvency liability has, generally, meaningfully decreased the contribution volatility, potential over-funding and stranded capital for plans that have sound going concern funded ratios, while still maintaining a reasonable level of benefit security for plan members. We do note, however, that the majority of these changes have been very recent. While it is expected that these changes should provide a better balance going forward between the sustainability/affordability of DB pension plans and benefit security, we would encourage regulators to periodically assess whether the funding rules have indeed met these goals over various time periods and economic conditions.

ACPM also supports requiring the funding of plans to the sum of a PfAD plus the plan's liabilities calculated using best estimate assumptions before permitting a reduction in contributions or withdrawal of excess. However, this level of funding should not be required in order to permit benefit increases for non-CBMEP plans.

Instead, improvements should be allowed with a requirement to achieve full funding of the incremental benefit over a certain time span, e.g., the 10-year period proposed in the Consultation Paper, or perhaps a shorter time span like three to five years which are typically used for collective bargaining contract periods. Improvements could also be funded in a "side-car" funding vehicle, like letters of credit or the solvency reserve account, such that the incremental funding shortfall created by the benefit improvement does not affect the benefit security of the benefits before the improvements.

We also believe that the PfAD should be included in the normal cost unless the going concern funded ratio (including the PfAD) exceeds some threshold. For this purpose, a threshold of 105% seems reasonable.

- *If you support an enhanced going concern funding proposal, what approach do you recommend to calculate the magnitude of the PfAD?*
    - *Should Alberta consider implementing similar rules as found in BC, in which the PfAD could be calculated as the greater of 5% or five times a long-term Government of Canada bond rate (CANSIM Series V122544), as long as the plan's non-fixed income allocation is over 30% (otherwise the PfAD could be proportionally reduced toward the 5% floor)? Or, alternatively, the PfAD could depend more directly on the plan's investment strategy (e.g., discount rate and asset allocation) and whether or not the plan is open or closed, as in Ontario? If you favor X jurisdiction over Y or Z, is there anything you'd change, nevertheless, to X's rules?*

PfADs are an important part of a robust risk management framework. That framework would reduce the volatility of the plan's funded position and contribution demands. It would also create an environment where the funded status of the plan would have less chance of resulting in severe cash flow problems for the employer sponsor while protecting plan members' pensions through prudent risk management.

ACPM believes that PfADs should be determined reflecting/considering, in accordance with the plan's funding policy as set by its sponsor, factors such as (i) the asset allocation of the plan, (ii) the ratio of retiree liabilities to total plan liabilities (i.e., plan maturity factor), and (iii) the difference between the expected duration of plan liabilities and the duration of plan assets (i.e., level of duration mismatch). Higher PfADs should be required for plans with, all else being equal, a higher proportion of risky assets and a higher level of duration mismatch. We believe that proper consideration of such factors by plan sponsors will produce reasoned risk management decisions with respect to the funding level and asset allocation of their plans. It will also allow actuaries to calculate a plan-specific PfAD that meets the core policy objectives.

ACPM believes that legislated fixed PfADs will not produce optimal results for DB stakeholders. PfADs only enhance sustainability if they can be built up in times of favourable experience and released in times of adverse experience. PfADs that are fixed or must increase in times of financial stress can actually be detrimental to the plan.

In particular, ACPM has some concerns with the PfAD rules adopted by BC (where the PfAD is set to the greater of 5% or 5x the long Government of Canada bond yield, CANSIM V122544). This approach, although simple to understand and implement, has the following shortfalls:

i) It ignores the plan's asset mix, and therefore ignores the actual level of risk a plan is exposed to;

ii) The PfAD is static and does not increase or decrease based on the level of risk the plan administrator decides to take. There is no automatic reduction in PfAD if investments in risky assets are decreased and/or better matching of plan assets and liabilities (we acknowledge the PfAD is reduced if the non-fixed income investments are reduced to below 30%); and

iii) It results in the same/similar PfAD for plans with completely different asset mixes and risk profiles, defeating the purpose of PfADs in the first place (we do not believe that PfADs should be one size fits all, but should reflect the level of risks being taken).

We do note, however, that the BC rules produce smaller PfADs when bond yields are low and the solvency position has greater influence on the contribution requirements, and larger PfADs when bond yields are high and the solvency position has less influence. This pattern achieves some of the characteristics of building up PfADs in times of favourable experience (when bond yields are high) and releasing them in times of adverse experience (when bond yields are low).

ACPM is in favor of pension legislation harmonization across Canada and is encouraged with the reference to the BC legislation. However, we would encourage reviewing these rules to consider the elements above before being harmonized.

Additional comments on PfADs:

- PfADs should not vary based on a plan's open or closed status. Many closed plans (especially recently closed plans where closure was only to new entrants) will still have very long-term horizons (which presumably was the reason for the differentiation adopted by Ontario). Taking the time horizon of the plan into account should be one of the risk measures that plan administrators consider when setting the investment policy.

- There should be clear guidance on the treatment, for PfAD calculation purposes, of alternative investment asset classes. The experience from Quebec and Ontario indicates clear guidance will be required. Further, regulations or other regulatory guidance should address "glidepath" situations where the asset mix is generally de-risked over time as certain thresholds are met.

- There should be no artificial limit imposed by regulation on the discount rate that will trigger increases to the required PfAD. It's been noted that the current derivation of Alberta's Benchmark Discount Rate and resulting PfAD requirement is not achieving the desired outcomes in all circumstances. The concept of a Benchmark Discount Rate (BDR) applicable to the PfAD determination would be preferable to be adopted using modelling tools and a principle-based approach or guidelines that could be revised more easily and frequently, if and when warranted by evolving market conditions.

Note that other alternatives for funding the PfAD are available, such as:

- Funding the PfAD only if and when experience gains are available (i.e., no explicit requirement to prefund the PfAD with additional contributions);
- Similar to Quebec, only requiring part of the PfAD to be pre-funded by additional contributions.

2) CBMEP Funding Rules

- *Please share your thoughts on the following proposed funding requirements (taken together):*
  - *Replace the current PfAD with a fixed, required minimum PfAD of 7.5%, and an additional principles-based PfAD to be determined by the plan administrator based on plan characteristics;*
  - *The plan PfAD and its supporting rationale should be included in the Funding Policy for each CBMEP;*

  and

  - *As with the current PfAD, plans would be required to fund to a level that is greater than the sum of a PfAD plus the plan's liabilities calculated using best estimate assumptions before allowing any action that could weaken the plan's funded position (e.g., reduce contributions, increase benefits, or withdraw excess). The PfAD must also be included in the normal cost unless the going-concern funded ratio, including the PfAD, exceeds 105%.*

When considered in their totality, ACPM is supportive of the proposed funding requirements as they are reasonably consistent with ACPM's recommendations for PfADs noted above. While the 7.5% PfAD base is arbitrary and might be considered excessive by some CBMEPs, we anticipate it would permit most CBMEPs to implement a meaningful plan-specific funding policy that best addresses the needs of each pension plan, as determined by the fiduciaries to the plans. With respect to the third bullet point however, we note that a reduction in contributions can occur due to industry and economic considerations that are outside of the control of the CBMEP board of trustees. That particular risk would be considered as part of the establishment of the plan-specific PfAD.

For CBMEPs, it can be beneficial to grant exemptions permitting limited improvements in certain circumstances, even when the funding targets are not fully met.

- *Alternatively, do you have views on other potential options for amending the existing PfAD, such as any of the following (each bullet is an individual idea – so bullets should not necessarily be taken together):*
  - *Instead of a PfAD which is additive (i.e., AA component + BDR component), the minimum PfAD could instead be equal to the greater of the two components.*
  - *As a variation on the previous option, the applicable PfAD could be the average of the asset component and the BDR component.*

- *Apply a PfAD which is based only on the asset allocation component or only the BDR component.*

- *In the event this option is preferred, what other recommendations are suggested to ensure the discount rate assumption in a going concern valuation isn't aggressively leveraged in an attempt to mitigate or offset the impact of this PfAD amount?*

- *Adjust the impact that the BDR component has in setting the PfAD. That is, consider changing the impact from 0.15% for each basis point the assumed discount rate exceeds the BDR to some other amount (say, 0.10% or 0.05%)*

- *Maintain the existing PfAD formula calculation and its application, but set a cap on the maximum amount.*

We believe the first proposal is superior to all of the alternatives listed. The first proposal is not ideal due to the base PfAD requirement. However, since the base is not unreasonably set, it should permit CBMEPs to establish "effective" funding policies. Here we consider an effective funding policy as one that permits a cohesive implementation of investment, funding and plan design policies that are established to achieve certain benefit objectives within accepted risk tolerances.

A key criticism of the current PfAD requirements is that they override the desired objectives contained within most funding policies to the point of rendering them purposeless. The suggested alternatives all reduce the PfAD requirements that would otherwise apply, but they do not support the development and maintenance of appropriate funding policies and plan-specific PfAD requirements. The penultimate alternative might, in fact, induce inappropriate levels of risk taking as the gap between the adjustment factor and the duration of a plan's liabilities widens.

- *What other approaches should be considered to address the volatility, benefit and contribution stability, and intergenerational equity concerns associated with the current PfAD (e.g., thoughts on the PfAD used in other jurisdictions)?*

Unlike most private sector pension plans, CBMEPs are jointly governed with members having at least 50% representation on the governing boards. In these circumstances, we believe it is preferable to require the fiduciaries to address those factors as part of the development of their plan-specific funding policies in the absence of any legislatively imposed requirements.

3) Funding Status Quo Risks

This paper has attempted to describe what we have heard from private sector pension plan stakeholders in Alberta, in terms of need for funding rule changes. However, are the issues and challenges identified still accurate, comprehensive, and current? What are the risks if Alberta's funding rules are not updated for private sector pension plans? Are there any other issues related to private sector pension funding that you would like to raise?

The funding regime changes being contemplated are still very relevant and needed.

STATUS QUO RISKS

As indicated in our introductory comments, ACPM believes the current defined benefit pension plan funding requirements do not represent an appropriate balance between member benefit security, and the sustainability and affordability of DB pension plans. Our introductory comments also provide a number of reasons why the current funding regime needs to be revisited and the risks and unintended consequences associated with status quo.

Not seizing the opportunity to revisit the current funding model at this time, when the health of pension plans has improved, would push the inevitable and required changes at a potentially inopportune time, when yet another round of solvency relief measures could be required. Status quo would perpetuate the gaps/misalignment with other jurisdictions, and potential unfair competitive advantage for employers outside Alberta. Current funding rules without changes will continue to be a factor in the continued decline of DB plan offerings.

We are providing below other corollary considerations that have not been directly addressed in this consultation paper.

OTHER COROLLARY CONSIDERATIONS

i. Notional Reserve Accounts – This is a repurposing of the existing solvency reserve account to include PfAD contributions. Employer contributions to fund solvency deficits and to fund the PfAD should be tracked through a notional reserve account that is available to employers for contribution holidays, to fund benefit improvements or be refunded on plan wind-up. This account can be used to address trapped surplus issues.

Furthermore, if the solvency funding target is lowered (ex.: to 85%), the threshold to withdraw funds from a solvency reserve account could also be lowered from the current level of 105%.

ii. Contribution Holidays – Our experience is that plan sponsors/administrators have found the contribution holiday rules under new funding regimes to be more complicated and/or severe than under the prior funding rules. Therefore, a contribution holiday should be allowed if the PfAD is funded (i.e., on a going concern basis, the plan is funded to a level greater than the sum of a PfAD plus the plan's liabilities calculated using best estimate assumptions) and the plan has a solvency ratio of at least 100%.

iii. Transition Period – An appropriate transition period should be permitted or a gradual phasing-in of the new funding regime in case it results in increased funding requirements.

iv. Portability and Commuted Value (CV) Basis – When pension portability was introduced, it was never the intent to provide terminating and transferring members with a premium over the long-term cost of keeping the deferred pension in the plan. The current exercise provides the government with an opportunity to address this longstanding issue, and we suggest that Treasury Board and Finance explore the alignment of CV calculations with the way in which the plan is funded. This would put plans on a more sustainable footing.

Minimum standards for commuted values should be more reflective of the underlying risk associated with the pension benefit and be aligned with the funding regime. Therefore, CV calculations should be revisited, including minimum standards that reflect the intent of portability and vesting concepts (including the 50% vs. 100% rule for excess contributions), as well as balancing the interests of departing and remaining members. ACPM would welcome the opportunity for further consultation on this topic.

Other than for some public sector and non-collectively bargained multi-employer plans, the existing commuted value basis in Alberta reflects the Canadian Institute of Actuaries (CIA) long-standing approach of treating accrued pension benefits as being quasi-risk free from a member's perspective.

Under the proposed funding approach however, an additional element of risk is being introduced for members and it may be appropriate that the commuted value basis reflect that incremental risk. This change, including the rationale for such a change, would need to be clearly communicated to all stakeholders in a transparent fashion.

We note that plans requiring member contributions must provide a terminated member with a minimum benefit based on their accumulated contributions (the "50% cost rule" or "100% cost rule", as applicable). If changes are made to the CV basis, then care should be taken to ensure that the CV basis combined with a maximum cost rule do not result in the employer value being wiped out, no longer reflecting the plan's cost sharing and vesting concepts.

v. Transfer Deficiency Payments – Under current legislation and CV methodology, plan sponsors who choose to immediately pay out a CV in full when the solvency ratio is below 100% must remit a transfer deficiency payment. This is done so that the benefit security of the remaining members in the plan is not harmed by transferring out the CV.

If changes are made to the CV basis as mentioned above, it would be appropriate to revisit the calculation of transfer deficiency amounts. For instance, if CVs are determined using a plan's going concern basis, it may be appropriate to only transfer the CV multiplied by the most recently determined funded ratio, with no further amount owing to the member in five years, and no transfer deficiency contribution required by the plan sponsor. Alternatively, even if no changes are made to the CV basis, but the solvency funding target is lowered (to, say, 85%), it may be appropriate to only require a transfer deficiency payment if the solvency ratio is below this new target.

vi. Income Tax Rules – A funding regime may be compromised in achieving its objectives if limited by other legislation such as the Income Tax Act and Regulations. For example, ITA limits on member contributions, including margins, and excess surplus rules may hinder the full deployment of the funding regime concepts. A revision of the ITA rules in alignment with funding regime reform would be beneficial; understanding this revision would require a joint approach by the regulators.

vii. Contribution Prepayment – ACPM would welcome the introduction of a contribution prepayment mechanism into the private sector funding rules, where contributions made by a plan sponsor in excess of the minimum required contributions can be (voluntarily) designated by the plan sponsor as a prepaid contribution to be "banked", and to be available in the future to reduce future minimum contribution requirements. A similar feature already exists with the prior year credit balance (PYCB) provisions in the Ontario legislation. Of course, the contributions in excess of the minimum requirements would still be limited by any maximum contribution limits imposed by the Income Tax Act.

The rules around the prepaid contribution should permit full flexibility in the future use of the prepayments – for current service cost, special payments (whether going-concern or solvency), or transfer deficiency top-ups.

The advantages of such a provision include:

1) Providing plan sponsors with additional flexibility in cash flow management, and the needs for cash in their businesses and to the plan;

2) Advancing the making of future contributions. Over the long run, this should have a positive impact on pension funds, as those contributions will have been invested longer;

3) Providing an additional lever available to plan sponsors to manage volatility and the counter cyclicality of contribution requirements (i.e. higher contributions being typically required when cash is scarce).

viii. Harmonization – ACPM encourages harmonization of pension legislation across Canada. The Superintendent should consider the advantages of harmonization with other jurisdictions to the extent possible, particularly the existing larger degree of harmonization between the Alberta and British Columbia pension legislation.

SECTION 2 – INNOVATION AND MODERNIZATION

4) Annuity Purchase and Liability Discharge

Currently, s.99 of the Act enables the purchase of a life annuity as a portability option. It has been long standing practice / administrative policy that annuity purchases from both an ongoing plan and a terminating plan are permitted; however, the Act does not contain additional provisions or details around that purchase, and some have suggested that they Act and regulation should more explicitly establish rules related to the purchase of an annuity from an ongoing plan and a terminating plan.

As with funding rules, rules regarding life annuity purchases and the related discharge of the pension liability have also been updated in a number of jurisdictions in recent years. Currently, the Act does not explicitly permit the discharge of the pension liability for annuity purchases.

Please share your thoughts on the proposed annuity purchase requirements (together):

- *Generally require that the annuity be of the same form and manner as the pension from the originating plan, as much as possible.*
    - *Where an annuity that matches plan provisions is not available (e.g., indexation based on actual changes to the Consumer Price Index), the purchase of an annuity with other characteristics would be permitted (e.g., fixed indexation), as per* CRA Newsletter 20-1 Registered Pension Plan Annuity Contracts in relation to the *Income Tax Act* s.147.4.
    - *Should substitutions be permitted for both ongoing plans and terminating plans (or just terminating plans)? Where an annuity is purchased from an ongoing plan, should member consent be required before a substitution is permitted?*

- *That retroactive discharge of the accrued liability be permitted, i.e., discharge for annuities purchased before the legislation is amended.*

- *That annuity purchase (and corresponding liability discharge) be permitted for all retirees, former members, and survivors.*

- *That member disclosure, but not consent, be required.*

- *That the plan's solvency funded position be preserved. In other words, the plan's solvency ratio be maintained at the lesser of one or the solvency ratio reported in the latest filed valuation report. If the purchase reduces the solvency ratio below one, then additional contributions would be required before purchasing the annuity.*

- *That appropriate documentation be provided to the regulator (examples include: an actuarial valuation at the date of the buy-out if there is a significant impact to plan funding and/or membership demographics; a requirement that an actuary file a certification that the discharge is in compliance with legislation; and a requirement the administrator to provide a copy of the annuity contract(s) under which the benefits will be provided; or other?).*

ACPM supports the discharge of liabilities upon an annuity buyout transaction that meets the requirements of the EPPA and EPPR provided the annuity is generally in the same form and manner as the accrued pension benefit from the originating registered pension plan. In the event where certain provisions of the pension benefit may not be precisely replicated through an annuity purchase, ACPM supports the replacement or trading of such ancillary benefits on an actuarial equivalent basis similar in concept to the operation of a flexible pension plan for both ongoing and terminated plans alike. To ensure that the actuarial value of an annuity is not deemed materially different following an ancillary benefits trade / substitution as clarified by the Registered Plans Directorate (Newsletter 20-1), ACPM recommends that an actuarial equivalency be determined on a commuted value basis. ACPM supports the discharge of liabilities for both ongoing and terminating plans.

Where an ongoing plan is involved, member consent is not recommended as it would be a potentially lengthy process and result in a cumbersome administrative burden for the plan sponsor. Since the involved insurance company(ies) would be required to communicate with all affected plan members, disclosure of the terms and conditions of the transaction, the name of the insurance company(ies) and who to contact for questions (e.g. mail, phone and email) should be provided to members. While transparency with members by the plan sponsor is important, it could be facilitated through the existing annual pension / retiree statement process.

ACPM recommends that there not be any limitation to the discharge provided through an annuity buyout transaction, and supports such discharge retroactively for all plan members, provided the annuity meets the requirements of the EPPA and EPPR since, in most cases, the financial stability of the insurer is stronger than the plan sponsor.

Regardless of a plan's funded status, a top-up payment for an annuity buyout should be based on the most recent funding valuation. The funded ratio of the plan after an annuity purchase should not be adversely impacted for the remaining members of the plan.

The funded ratio would depend upon the funding regime in effect at the time of the annuity purchase (currently solvency based but may evolve into a going concern plus requirement in the future).

As stated previously, the requirement for an updated valuation should depend on the materiality of the annuity purchase. If the purchase is material (e.g., major shift in demographics, risk profile of the liabilities), an updated cost certificate or actuarial valuation should be required with confirmation that the purchase does not impair the financial position of the plan, similar to the assessment as to whether the payout of a commuted value would have "impaired" the solvency position of the plan.

On a prospective basis, ACPM supports the filing of an administrator notification indicating that an annuity purchase was in accordance with legislation, including who the insurance company(ies) was (were), in order for the Regulator to monitor the transfer of assets and liabilities from the pension plan. ACPM does not see a need to provide a copy of the annuity contract to the Regulator, subject to the certification or notification being provided.

5) Target Benefit Conversion for CBMEPs

While the Act allows any pension plan to offer a target benefit provision, at present, only CBMEPs offer this benefit type to members. Indeed, many CBMEP stakeholders have identified that while the target benefit framework is relatively new, in fact it best describes how those plans have operated historically. A participating employer's liability for funding benefits under a CBMEP is limited to the contributions contractually required to be paid into the plan (e.g., established under a collective agreement). As such, the members' pension entitlement under a CBMEP are targeted benefits, rather than being guaranteed. Benefits must be reduced if the contributions or plan assets are insufficient to support the cost of accruals or plan liabilities based on the targeted benefits. At present, a target benefit structure is limited to pension plans only on a go-forward basis, and some CBMEP stakeholders have argued that requirement should be removed.

Consequently, feedback is sought on the following: Should the restriction on retroactive conversion of plans from defined benefit to target benefit be removed from the Act for CBMEPs? ***Permitting retroactive conversion of defined benefit to target benefit for non-CBMEPs is not proposed.***

- *As there is currently a restriction on retroactive conversion from defined benefit to target benefit, many of Alberta's CBMEPs are currently classified as defined benefit but have been exempted from defined benefit funding requirements by s.10.1 of the regulation; this allows these CBMEPs to use target benefit funding rules instead. However, concerns have been expressed that this temporary solution leads to uncertainty regarding plan funding rules. What are your thoughts on removing the restriction on CBMEPs from having the option of converting accrued defined benefits to target benefits retroactively?*

- *How would CBMEP member consent be obtained prior to conversion? That is, what conditions should be imposed (e.g., do you prefer board of trustees consent or union consent on behalf of all members)?*

ACPM supports the retroactive conversion of a CBMEP to a target benefit plan providing conversion rules must be balanced, manageable and flexible.

In respect to Alberta's existing CBMEPs, where reductions in accrued benefits are required in the event of inadequate funding, Alberta should mirror the approach adopted by British Columbia and not require the consent of members on conversion. Converting would increase the ability of governing boards to define and manage their funding policies properly. It would also serve as a mechanism to educate members about the target nature of their entitlements and inform the members that such entitlements do not share the same prohibitions against benefit reductions applicable to traditional DB plans.

6) Variable Payment Life Annuities (VPLAs) and Advanced Life Deferred Annuities (ALDAs)

In 2021, Bill C-30 amended the Income Tax Act (Canada) to enable a Variable Payment Life Annuity (VPLA) as an additional decumulation option for members of a defined contribution (DC) plan. As the name implies, a VPLA will provide retirement income to a retired member, the amount of which may vary, based on the investment performance of the underlying fund and the mortality experience of the recipients. A VPLA is a product that would be offered from the DC plan.

Bill C-30 also enabled an Advanced Life Deferred Annuity (ALDA), which is a retirement income product, purchased from an insurance company, in which periodic annuity payments are required to begin no later than the end of the calendar year in which the annuitant reaches age 85. In contrast to a VPLA, an ALDA may only be acquired via a transfer of assets from a registered pension plan, a registered retirement savings plan, a registered retirement income fund, a pooled registered pension plan or a deferred profit sharing plan. Other criteria will have to be met to qualify as an ALDA.

With the Income Tax Act (Canada) amendments completed, should the legislation be amended to enhance decumulation options to authorize VPLAs and ALDAs? If yes, should the Act provisions merely adopt, by reference, the applicable Income Tax Act provisions, or should more substantial detail be contained within the Act? Alternatively, are different approaches appropriate; for example, should ALDAs be authorized as a portability option whereas more substantive rules be established for a VPLA (for example, as seen with the rules applicable to Life Income Type Benefits)? Should commutation for small amounts, shortened life expectancy, and/or non-residency be permitted for VPLAs and/or ALDAs?

ACPM generally supports the EPPA being similarly amended to specifically provide for these new and innovative products. However, for these products to gain acceptance among plan sponsors and the retirement industry in general, ACPM believes that no additional regulations be imposed by the Regulator and that the current legislative framework, including reference to the ITA, be extended whenever possible to these new products. Layering of additional jurisdictional requirements may ultimately discourage adoption among plan sponsors and other industry participants thereby preventing plan member access to these products.

Concerning the issue of whether additional approaches are appropriate, ACPM supports the development of innovative products and features which not only enhance the benefit security of plan members but also meet their unique and evolving needs. While different approaches may inherently exist and be necessary between the ALDA (advanced life deferred annuity) and VPLA (variable payment life annuity), ACPM believes that mandating any additional and complex jurisdictional requirements would be counterproductive to the acceptance and adoption of these products in the marketplace. Enabling the retirement industry to develop and offer ancillary product features on a voluntary basis, within the parameters of the Income Tax Act (Canada), should be encouraged by the Regulator.

7) Unlocking for Reduced Life Expectancy

The Act requires that every pension plan, locked in retirement account (LIRA) or life income fund (LIF) contain provisions allowing for the withdrawal as a payment in a lump sum, or a series of payments, of a person's pension benefit due to an illness or disability that is certified by a medical practitioner to be terminal or to likely shorten the person's life considerably.

In order to commute a pension entitlement under this provision, the member (or owner of the LIRA or LIF) must provide certification from a physician that the member (or owner) has an illness or disability that is terminal or likely to shorten the person's life considerably. If the member (or owner) has a spouse, the commutation can only be completed if the spouse waives their entitlements through the completion of the prescribed form and in the proper manner.

The current provisions are not a minimum standard, but rather an exception to the usual locking-in restriction. Therefore, plans are not permitted to implement rules more stringent than the current provisions (e.g., permitting only those with a prescribed life expectancy).

Some stakeholders have indicated a preference for the rules for shortened life expectancy unlocking to be strengthened (for example, that the ability to unlock benefits be restricted to those who are within two years of dying), citing concerns that the current rules create a risk that the provision for unlocking can, and are, being abused.

Other stakeholders, however, indicate a preference for the status quo. These stakeholders note there are a wide range of circumstances where a patient may have an illness that is terminal or where life expectancy may be considerably shortened. Further, the outcome of a patient can be impacted by many factors including the illness itself, the health of the patient (e.g., comorbidities), the treatment available, the patient's treatment choices, etc. These and other factors make it difficult to specify life expectancy for any given patient.

Arguments for or against changes are mostly anecdotal. The Superintendent does not maintain statistics on the number of individuals who unlock their pension due to shortened life expectancy. Similarly, the prevalence of abuse is not known; nor is it necessarily certain that abuse would be eliminated if the standard is changed, as placing arbitrary time frames on life expectancy may not necessarily stop patients from seeking a practitioner who might offer an opinion aligned with their interests. There is also concern that introducing specific timelines may negatively impact a patient's treatment decision (e.g., if seeking a treatment may extend life expectancy by some period beyond a specified timeframe). Finally, the current approach may allow individuals to unlock and use their money before their quality of life deteriorates (e.g., one may have five years left to live, but only two good years).

In light of these competing perspectives, feedback is sought on whether the Act should restrict unlocking for reduced life expectancy to those individuals who are within two years of dying (or some other quantifiable threshold)?

Placing a quantifiable threshold on shortened life expectancy may adversely impact individuals who do not meet the threshold requirement but could use the funds to improve and/or extend their quality of life. For example, individuals who have participated in a generous pension plan throughout their careers may not have sufficient savings they can utilize to cover expenses to improve and/or extend their quality of life, such as RRSPs or LIRAs which can be accessed through financial hardship legislation.

Expenses may include, but are not limited to, medical costs not covered by provincial or group benefit programs, accessibility modifications to the individual's home, and home care.

It is ACPM's view that the potential adverse impact with imposing a quantifiable threshold to shortened life expectancy outweighs any individuals that could potentially abuse the current rules. As a result, ACPM supports continuing with the current unlocking rules for shortened life expectancy.

Further, ACPM supports adding clarity to Section 71(3)(a) of the EPPA to specify that individuals in receipt of a disability pension from the pension plan are not allowed to unlock due to shortened life expectancy. Section 71(3)(a) of the EPPA, currently as written, applies to retired members only.

Lastly, the definition of "medical practitioner" under Section 1(3) of the EPPR only allows for a registered or certified Canadian physician which makes it difficult for individuals with shortened life expectancy who no longer reside in Canada to unlock their pension funds in a timely manner. While an individual could use non-residency unlocking provisions to access their pension funds, the process is more onerous since it requires Canada Revenue Agency approval. ACPM supports amending the "medical practitioner" definition under Section 1(3) of the EPPR to recognize physicians in a country where the individual resides.

8) Relationship Breakdown

While wholesale changes to the provisions applicable to the division of pension benefits upon relationship breakdown are not being contemplated at this time, Treasury Board and Finance seeks feedback on potential clarifying amendments to the Act and regulation regarding the rules on relationship breakdown as follows:

- *Should s.87 of the Act be amended to clarify that an administrator's entitlement to charge a fee for the services provided under that Division extend to the preparation of pension statements upon relationship breakdown, even if the pension is ultimately not divided?*
    - *Some stakeholders have indicated that considerable effort is required to prepare pension entitlement statements for relationship breakdown/pension division scenarios; and sometimes multiple requests for statements are received with respect to the same pension (using different relationship breakdown dates). Currently, the language of this section, coupled with the language of s.37 of the Act, can be interpreted such that fees are permitted to be charged for this work only after the actual division of the pension has occurred.*
    - *However, in many cases the pension is not divided, but instead the information provided is used to trade against other assets (e.g., the house). In this case, the administrator is not able to recoup its costs, despite still undertaking the work. Some pension administrators have argued that they need to charge fees for this work, in order to recoup their costs.*

ACPM supports the entitlement of an administrator to charge a fee for providing pension benefit disclosure for relationship breakdown purposes, regardless whether benefits are ultimately divided. The majority of the expenses incurred by an administrator involve the calculation and disclosure of the pension benefit to the involved parties while any administrative fees incurred in the event of an actual division of assets would be relatively modest in comparison. However, the fee charged to prepare and provide the estimate should not exceed a reasonable amount defined by the legislation.

Further, clarity should be added to Section 87 of the EPPA to specify that the party(ies) making the request is responsible for the fee and it must be paid when the request is made.

- *Should s.36(6) of the regulation be amended to require that the member's designated beneficiaries be identified in this disclosure statement?*
    - *Members often list their pension partner as the designated beneficiary (despite the fact that the Act provides automatic protection to pension partners). As such, the purpose of this change is to alert the member, post divorce or separation, of their designated beneficiary(ies) so that they may change them.*

ACPM fully supports any initiative which serves to safeguard the benefit security of plan members and their beneficiaries. However, to recognize the personal and sensitive nature of pension benefit disclosure pursuant to a relationship breakdown, requiring such additional disclosure may be counterproductive and result in a variety of unintended consequence (e.g., increased legal fees incurred to alleviate pension partner concerns; further delays and increased market value exposure in an already time-consuming pension division process; social cost resulting from any additional stress incurred by the parties during an inherently stressful process). Since legislative protections for a pension partner are currently well established, the additional proposed disclosure does not serve to enhance their benefit security. Further, since active members would continue to receive annual statements in the future, which discloses their beneficiaries, the relationship breakdown disclosure statement would not be the only opportunity to notify a member about their beneficiary(ies) on file.

- *Should s.82(14) of the regulation be amended to remove the requirement to recalculate commuted values after 180 days?*
    - *Presently, this provision aligns with s.9(5) of the regulation, which otherwise requires the recalculation of any other commuted value amount after 180 days. However, some stakeholders have identified this requirement to be problematic for the following reasons:*
        - *It can be administratively cumbersome, as the time associated with the division of pension benefits on relationship breakdown can commonly exceed 180 days,*
        - *Member and non-member pension partners may not fully understand or appreciate that the requirement to recalculate may impact the actual amounts paid upon division, and*
        - *Few other jurisdictions have similar requirements.*

ACPM views any extension of the recalculation period for relationship breakdown calculations as a patch solution which does not address the underlying issues. It is not uncommon for the administrator to receive a relationship breakdown calculation request a significant period of time after the relationship breakdown has occurred. Further, it may take many years until the parties settle the marital assets. As commuted values are calculated based on the CIA Standards of Practice, the amount paid out at settlement can vary significantly from the commuted value calculated as of the date of relationship breakdown used to settle the marital assets.

Consideration should be given to alternative approaches that would remove the volatility in the CIA Commuted Value basis. Possible approaches are as follows.

1. Remove the requirement to recalculate the commuted value. The settlement amount would be based on the commuted value at the date of relationship breakdown rolled forward with interest to the date of settlement. While this approach removes the volatility associated with recalculation, it may overstate or understate the settlement amount if a significant period of time elapses between the date of relationship breakdown and date of settlement. For example, the settlement value may not reflect early retirement subsidies forgone if the member was close to early retirement age at the date of relationship breakdown. This would also require a clear definition of the valuation date as the relationship breakdown and establishment of an agreed upon date by both parties before determination of the value.

2. Calculate relationship breakdown values using a less volatile actuarial basis than the CIA commuted value basis (such as a going concern basis) The length of the recalculation period could be more easily eliminated or extended, balancing administrative effort with mitigating the degree of overstating or understating the settlement amount.

Lastly, the legislation for relationship breakdown calculations addresses pre-retirement divisions but is silent on post-retirement divisions. A draft interpretive guideline was developed in 2017 for post-retirement divisions but was never finalized. ACPM supports the development of legislation for post-retirement divisions. In the absence of such legislation, ACPM encourages the Alberta Superintendent of Pensions to revisit the draft interpretive guideline so it can be finalized to guide plan administrators.

9) Responsibilities of fundholders/Remittance of contributions/Refund of contributions

Contribution remittance rules under the legislation require that the Superintendent be notified when contributions are not remitted at all (s.56(3) of the Act) or when the actual amount of contributions received is less than 90% of an anticipated amount (s.58(6) of the regulation).

Should the notice of incorrect remittance of contributions required by s.58(6) of the regulation and s.56 of the Act also be provided to the applicable employer? If legislation requires the participating employer to be notified at the same time as the Superintendent, it may allow rectification of the issue before the Superintendent needs to get involved.

In a related topic, should s.59 of the Act, Refund of contributions to avoid revocation, be amended to accommodate changes to the federal Income Tax Act (Canada), to allow for the return of contributions made in error within the same year and not require the consent of the Superintendent for the return? If yes, should the Act specify that the Superintendent must be notified of the return?

ACPM supports notice of incorrect remittance of contributions, to a participating employer at the same time as the pension regulator. In many instances, this will enable plan administrators and custodians to resolve the issue before the Superintendent is involved. Further, ACPM recommends that if the issue can be resolved prior to the regulator being involved, that the regulator is copied on the satisfactory resolution of the issue so the issue can be closed. If the issue cannot be resolved satisfactorily within a fixed period, the Superintendent should be notified so that they can be appropriately involved.

On the related issue of s.59 of the Act, Refund of contributions to avoid revocation, alignment of the EPPA to the updated federal *Income Tax Act* (Canada) will enable plan administrators to effectively resolve the issues in a similar manner under both regulatory frameworks. Notification to the Superintendent should occur for amounts over a reasonable threshold to streamline processes for small dollar corrections.

10) Deemed Trust

Section 58 of the Act establishes a deemed trust provision on contributions or amounts which are owed to a pension plan but have not yet been remitted. These provisions help establish a measure of protection for plan members to the assets of the plan.

While the Act was originally worded to align with similar provisions in British Columbia, more recent amendments to the Pension Benefits Standards Act in that province have expanded the deemed trust provisions to include protection in the case of proceedings:

- *under the Companies' Creditors Arrangement Act (Canada),*
- *under the Winding-up and Restructuring Act (Canada) or similar provincial legislation,*
- *in relation to liquidation, receivership or secured creditor enforcement, or*
- *in relation to insolvency other than under the Bankruptcy and Insolvency Act (Canada).*

Should s.58 (Deemed trust) of the Act be amended to align with BC and add a new subsection to clarify that any contributions which are due and owing to the plan are deemed to be held separate and apart from the assets of the employer in the above situations?

While ACPM strongly supports harmonization efforts and additional benefit security as general matters, we would defer substantive commentary on this proposed amendment pending further articulation by Treasury Board and Finance of the policy objective(s) expected to be achieved by such an amendment. We note that the deemed trust provisions of the EPPA presently in place are fairly robust and, while they could be strengthened to promote benefit security, any such amendments would have implications that extend well beyond the pension regulatory sphere given expected impacts on the rights of borrowers, lenders and other interested parties that require the input of additional subject matter experts. ACPM supports provisions for additional benefit security and plan sustainability; however, these provisions should not discourage employers offering pension plans and limiting their access to credit. We would be pleased to apply the various analytical lenses that we think would be relevant to any discussion of amendments to the deemed trust rules but, in order to do so most effectively, we would appreciate receiving a more detailed explanation from the regulator of the perceived deficiencies of the existing deemed trust regime, and the anticipated benefits to members of aligning these provisions with those of the British Columbia Pension Benefits Standards Act.

11) No disposition or attachment of benefits and money

Generally speaking, s.72 of the Act provides that funds held in a pension plan and monies transferred to a locked-in retirement account or life income fund cannot be assigned, charged, alienated or anticipated and are exempt from execution, seizure or attachment. However, at present, the Act does not expressly extend those protections to life annuities.

Should s.72 be amended to extend protections to life annuities that have been purchased with pension funds? The change would be consistent with changes made to the BC PBSA.

Further, to align with the protections given to other registered products as a result of Alberta's Bill 20: Civil Enforcement Amendment Act, 2009, should s.72(5) of the Act be amended by adding the words "made before, on or after October 1, 2009" after "additional voluntary contributions and optional ancillary contributions"? This change will add additional clarity that AVCs and OVCs made before October 1, 2009 are still exempt from execution, seizure or attachment even if made prior to this date (unless execution, seizure or attachment was initiated before the date).

To promote equality among the various retirement income products which may receive a tax-deferred transfer of locked-in funds from a registered pension plan, ACPM supports the extension of legislative provisions to life annuities. In addition, this change would further promote harmonization with the BC PBSA.

ACPM fully supports legislation which serves to safeguard the benefit security of plan members. Further clarity within existing legislation that serves to promote this objective is endorsed by ACPM.

12) Waiver of benefit entitlement for designated beneficiaries

Under s.89 of the Act, the priority of payments on the death of a member prior to that member's pension commencement, is first to the pension partner, or if there is no pension partner or the pension partner has waived, to one or more of the member's designated beneficiaries.

While rare, situations have occurred in which a designated beneficiary either does not wish to receive the payment of the death benefit or dies prior to receiving the payment. At present, the Act is silent on the obligations of a plan administrator in such circumstances.

We seek your input on how to resolve such scenarios. In the case of a beneficiary who refuses payment, the Act could expressly permit the beneficiary to waive the entitlement. If this occurs, options for the payment include: the amount that would otherwise have been payable to that individual could instead be paid to the remaining designated beneficiaries, if any, in equal proportion; or this amount could be paid to the member's estate.

In the event that a beneficiary dies before receiving payment, the Act could parallel the existing requirement under s.89(4) whereby the benefit is paid first to whomever the designated beneficiary had named as a beneficiary or failing that, to the estate of the designated beneficiary. Other approaches may also be preferred.

For a beneficiary who refuses payment in this scenario, ACPM supports the Act being amended to enable a beneficiary to waive their entitlement. Given the legal implications of such a waiver, it would serve in the best interests of all parties involved if a "waiver" document was made available by the Regulator in a prescribed format. For administrative simplicity, the amount that would have been payable may be allocated to any remaining designated beneficiaries on a proportional basis. In the event there is / are no remaining beneficiary(ies), the benefit would be payable to the member's estate.

The waiver should reflect that a beneficiary cannot waive part of the payment. They must waive the entire amount.

In the event a beneficiary dies before receiving payment and there is no disposition of the share of the deceased designated beneficiary provided for in the designation, the proposed approach whereby the benefit would be distributed to any other designated primary beneficiaries on a proportional basis is supported by ACPM. In the event there is / are no remaining designated beneficiary(ies) for any reason, including a waiver of entitlement in a prescribed format, the benefit would be payable to the member's estate.

If these proposals are implemented, the following could also be beneficial to provide:

- A default option for a beneficiary who does not accept and does not waive entitlement.
- Clarity about what actions or what timeline constitutes a deemed refusal.
- A discharge of the administrator for paying out benefits under a waiver, default or deemed refusal. (e.g., discharge when the money is paid, or clear priority language to allow administrators to process the payment to the estate if the beneficiary refuses both to accept money and to sign the waiver).

13) Other

Do you have other ideas to support innovation and modernization with regards to pension legislation and regulatory requirements?

Section 57 of the EPPA

As communicated in ACPM's response to the Alberta Pensions Questionnaire on February 26, 2021, clarifying the application of Section 57 of the EPPA would be beneficial as there seems to be varied interpretation among stakeholders. Is Section 57 intended to define what gets considered and how the excess contributions are determined or is it intended to define what type of service gets included in the calculation of commuted values?

Additional Voluntary Contributions

Additional voluntary contributions (AVCs) are an attractive feature offered by defined benefit plans due to the following reasons:

- Retail markets for tax-sheltered investments charge investment management fees, as a percentage of assets, that are typically two to four times higher than those paid by defined benefit pension plans.
- Through diversification of investments, a defined benefit can yield higher returns, without taking on significant risk, than typical retail investment funds, especially in the latter stages of life.

The lower fees, combined with higher potential returns that a defined benefit plan offers, can significantly increase an individual's income during retirement. As a result, defined benefit pension plans can play a bigger role in supporting members in meeting their retirement goals by allowing AVCs.

The current legislation is restrictive with respect to how AVCs are funded and AVC benefits are delivered. ACPM supports legislation that will provide more flexibility in the funding of AVCs as well as how benefits are delivered. The framework below, which is similar to that of Ontario, would provide this flexibility:

- Allow AVCs to be treated as a money purchase provision to the underlying defined benefit plan. This can be achieved by removing the minimum 1% employer required contribution for money purchase plans.
- Under the money purchase provision, allow for non-locked in and locked in funds which would be tracked separately. Non-locked in funds would consist of RRSP transfers and contributions made through payroll deduction. Locked-in funds would consist of transfers from LIRAs or other pension plans.
- Extend Life Income Type Benefits to AVCs. Allow members to commence their Life Income Type Benefit anytime on or after commencement of their defined benefit pension. This provides the member with more flexibility to meet their financial needs during retirement.
- Members would still be allowed to withdraw or transfer out their AVC balance at retirement.
- Make it optional for plan sponsors to allow AVCs to be converted to benefits if they offer a Life Income Type Benefit.
- Terminated members who elect a deferred pension would be allowed to leave AVC balances in the pension plan. However, they would no longer be able to contribute or transfer assets to their AVC account. Terminated members who elect a termination benefit would be required to transfer out their AVC balance.

SECTION 3 – RED TAPE REDUCTION

14) Tribunal Repeal

In 2008, the Report of the Joint Expert Panel on Pension Standards (the Report) in Alberta and British Columbia recommended the establishment of a pension tribunal to hear appeals of regulator decisions to act as a "check and balance" to greater regulator discretion. The Report argued the creation of an independent appeal tribunal comprised of experts in the pension field would provide a lower cost, more effective, and more accessible dispute resolution process than was available through the courts.

At the time the Report was published, and in light of the enhanced discretionary powers recommended to be given to the Superintendent, and in particular the ability to impose administrative penalties, it was thought possible that the exercise of that discretion would result in more disputes.

Without a tribunal, those affected by the decisions of the regulator must pursue recourse through the courts, which is a costly and time-consuming process and may have an adverse impact on the willingness of parties to dispute regulatory decisions. The Report posited that with appropriate application of standards of review by a tribunal, the exercise of regulatory discretion would be more open and transparent and would likely improve over the course of time. Perhaps most importantly, those impacted by such decisions would have enhanced access to justice.

In 2014, the Act was amended to provide for the establishment of the Alberta Employment Pensions Tribunal (the Tribunal). The purpose of the Tribunal is to review certain decisions of the Superintendent of Pensions (the Superintendent) to determine if the decision is consistent with the requirements and intent of the Act.

However, since its establishment, the Tribunal has only received one appeal. Thus, it is appropriate for Government to consider whether the Tribunal is an effective mechanism to address appeals. Access to the Tribunal must also be weighed against the resources required or dedicated to the maintenance of the Tribunal that rarely meets.

Should the Alberta Employment Pensions Tribunal be repealed?

Regardless of your position on the Tribunal, are there other approaches (other than a review by a court) which might be taken to the review of a certain decision of the Superintendent of Pensions to determine if the decision is consistent with the requirements and intent of the Act?

In view of the fact that the Pension Tribunal has not been used since its establishment, and that we do not anticipate a significant volume of activity before it in the short to medium term, we are supportive of amending the EPPA to remove references to the Pension Tribunal and to provide a right to seek judicial review by the Court of Queen's Bench of any decision of the Superintendent. The evidence to date indicates that the need for a full-time Pension Tribunal is quite limited, and we are concerned that its utility as an independent tribunal comprised of subject matter experts may be undermined by its lack of use. Under the current regulatory framework, the volume of highly contentious matters is quite limited and we do not think that the maintenance of the Tribunal and its associated administrative apparatus is required to promote the fair application of the EPPA.

We note that in the event the Pension Tribunal is engaged, rules and procedures governing the Tribunal would need to be developed and socialized, and expect that in the short term, at least, that allowing parties the opportunity to seek judicial review of decisions of the Superintendent would not lead to significantly lengthier timelines for dispute resolution or higher costs to the participants.

15) CBMEP Participation Rules

Currently, in respect of a CBMEP, the Act provides that employees are entitled to join the plan if the employee has earned from employment (with one or more participating employers) in each of two consecutive calendar years, not less than 35% of the Year's Maximum Pensionable Earnings (YMPE). Eligibility for membership in these plans had previously been based on a requirement that the employee must have at least 350 hours of employment, annually, for two consecutive calendar years. The "350 hours rule" was replaced with the current rule as part of the Act rewrite in 2014.

Should the eligibility for enrolment in a CBMEP be amended to revert back, exclusively, to the rules which applied prior to 2014 (based on 350 hours of employment per year for two consecutive years)? Or, should the Act instead, permit plan membership for CBMEPs to include 350 hours of employment (new) or 35 per cent of YMPE annually (current)?

- *All other jurisdictions that use an "hours of employment" threshold for these types of plans use 700 hours of employment annually for 2 consecutive years. Based on full-time employment, 700 hours of employment is roughly equal to 35 per cent of a full calendar year[2], Should the threshold in Alberta be 700 hours of employment annually for 2 consecutive years (or 350 hours of employment annually for 2 consecutive years)?*

In the absence of any pressing policy consideration that would favour an Alberta-specific minimum standard, we think it preferable that the threshold in Alberta be consistent with those applied in other Canadian jurisdictions, particularly in view of the stated desire of red tape reduction (as minor differences in minimum standards are a consistent source of administrative complexity). We expect that CBMEPs which wish to continue to use the current standard for eligibility purposes will do so.

16) Specified Individuals and Plans for Connected Persons

Currently, except as prescribed in the regulation, the Act exempts plans from the application of the Act where all members are connected with a participating employer (within the meaning of section 8500(3) of the Income Tax Regulations (Canada) (ITR)).

Feedback is sought as to whether the legislation should be amended to broaden and expand the exemption to include plans where all members are "specified individuals" (as defined in the ITR), except as would be set out in the regulation? If adopted, about twenty active plans would no longer be subject to direct regulatory oversight by the Superintendent; however, key legislative protections as provided by s.13 of the regulation would continue to apply.

- *The ITR defines a "specified individual" as one who is connected to a participating employer (a "connected person") or whose remuneration is greater than 2½ times the year's maximum pensionable earnings (YMPE is $64,900 in 2022).*

- *The ITR defines a "connected person" as a person who does not deal at arm's length with the employer, is a specified shareholder of the employer by reason of paragraph (d) of the definition of specified shareholder in the ITA, or holds, alone or in combination with someone they do not deal with at arm's length, 10% or more of the issued shares of any class of shares of the employer or related employer.*

Feedback is also requested regarding amending s.13(a) of the Regulation to also include s.72 of the Act (No disposition or attachment of benefits and money) as an applicable provision that will apply to these plans.

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[2] An employee is assumed to work 40 hours per week x 50 weeks per year = 2,000 hours. 35% of 2000 = 700.

In our view, this is an issue that affects a very limited number of plans and plan members, and therefore we do not expect that a broadening of the exemption would result in any significant amount of red tape reduction, either now or in the future. However, we recognize that it would reduce to some degree the regulatory oversight required of the Superintendent and therefore would be expected to free up regulatory capacity that could be employed for the benefit of plans providing benefits to a significantly greater number of Albertans. As a complementary measure, extending the requirements of s. 72 of the EPPA to plans otherwise exempted from registration under the EPPA would help to ensure that such plans, while not under the direct supervision of the Superintendent, would continue to be subject to features that distinguish registered pension plans from other forms of tax-assisted savings plans. We are of the view that relieving such plans of the duty to register under the EPPA while maintaining a prohibition on the disposition or attachment of benefits and money is broadly consistent with the goal of red tape reduction and extending the application of s. 72 of the EPPA to exempted plans is not at cross-purposes with this objective.

17) Access to Information and Records

Currently, s.37 of the Act requires the administrator of a pension plan to provide members with access to information and records once every twelve months, without charge. Some stakeholders have argued that this rule results in increased administrative complexity and compliance costs, as administrators must keep track of the specific date when records have been requested (and track 12 months from that date). Under the change, the ability to access records would change to once per calendar year.

Should the Act permit member access to information and records each calendar year (as opposed to once every 12 months)?

We do not view this matter as a significant concern for most administrators. However, restricting access to once in any calendar year should be sufficient to plan members and would simplify the tracking of dates for administrators.

18) Restriction on Spouse as Beneficiary

Section 89 of the Act establishes the following priority of payment of pension benefits on the death of a member (if the member dies prior to their pension commencement date):

- *To the surviving pension partner (on a locked-in basis),*
- *In the event there is no surviving pension partner, or if that person waives their entitlement, to a designated beneficiary (on an unlocked basis), or*
- *Failing the above, to the estate of the deceased member (on an unlocked basis).*

Section 89 imposes a further restriction that a surviving pension partner who has waived the entitlement to receive the deceased member's pension is not entitled to receive any benefit as a designated beneficiary or from the member's estate.

The rules are intended to prevent the possibility that the usual locking-in requirements cannot be circumvented. However, while the rule to prevent a surviving pension partner from being named a designated beneficiary when they have waived their benefit is relatively common across other pension jurisdictions, the further restriction that prevents a surviving pension partner from receiving the distribution of assets from an estate is not.

Should the restriction on a spouse (who waived their benefit) from receiving the benefits as the designated beneficiary of an estate be removed from the Act?

As noted in the commentary for Question 12, Alberta already imposes the additional restriction of preventing a surviving pension partner from being named a designated beneficiary when they have waived their benefit which, as also noted in the commentary, is not required in all Canadian jurisdictions. In other words, the provision is already not fully harmonized across the country. At the outset, adding in the additional restriction that prevents a surviving pension partner from receiving the distribution of assets from an estate adds to the lack of harmonization.

Though we do not disagree that the additional restriction regarding the estate is consistent with the basic intent of the provision, in ACPM's view, the provision is not administratively practical. In our experience, more than a few plans overlooked the provision when it was introduced and did not understand the provision. However, in ACPM's view, the biggest difficulty is expecting pension plan administrators to check with the estate of a deceased plan member to ensure that the member's pension partner had not been named as a beneficiary of the death benefits. We are unsure of the degree of compliance with the provision in any event from an administrative standpoint, other than perhaps relying on the "honour system" on the part of the member. We are further unsure as to the likelihood of a member actually going that far to defeat the locking-in rules (i.e., is this more of a theoretical problem?). Further, this provision strikes us as having the potential to involve considerable amounts of time and expense on the part of the administrator, especially if a dispute arises.

In summary, while the provision may reflect a justifiable policy position, ACPM believes the perceived evil does not justify the additional burden placed on plan administrators by this provision.

19) Restriction on Spousal Waivers after Retiree's Death

Section 90 of the Act establishes rules on the payment of survivor benefits following the death of a retired plan member, and includes provisions that permit a surviving pension partner to waive their entitlement to the payment of death benefits. However, some stakeholders have identified that the language around the timing of a death benefit waiver as outlined in that section may not align with desired intent, and in any event, have expressed a desire for greater flexibility and consistency with the timing applicable on pre-retirement death.

Should the restriction on a spouse from being able to waive pension benefits after the retiree's death be removed from the Act; more specifically, to permit the death benefit waiver form under s.90(6) to be completed prior to, or after, the death of the plan member?

Specific examples of the issues that TBF has identified have not been cited and therefore the extent of the problem is not immediately clear. However, we do agree that there is some inconsistency with the corresponding pre-retirement death provisions. We are also generally in favour of providing greater flexibility to plan administrators as to when they can accept the waiver, and to pension plan partners as to when they can submit the waiver, especially as it is not unreasonable to assume that their plans may change in light of the death of the plan member. However, we also would not want to see plan administrators put in the position of having to wait for an extended period for a pension partner to determine if they wish to file a waiver. Accordingly, it might be helpful to include a time limit to do so following the death of the plan member, upon the expiry of which the deemed sole designated beneficiary will remain the pension partner.

20) Defined Contribution Plans – Automatic Features

Stakeholders have identified that features such as automatic enrolment, and automatic contribution escalation, are desirable features that can help better support the retirement security of plan members. As present, s.29(2) of the Act outlines rules which support automatic enrolment of employees into a pension plan. Additionally, s.8 of the Act and s.53 of the Act outline a requirement for a pension plan text to describe contribution requirements, and the Superintendent accepts plan texts which provide for automatic contribution escalation. However, stakeholders have suggested additional changes to the Act may be useful to help further support these automatic features.

- *Should the existing permissive ability to enable automatic contribution escalation within a pension plan text document be more expressly codified in the Act?*

- *Should the Employment Standards Code be updated to enable automatic deductions from employee earnings to group pension plans or savings? Although this is separate legislation from the Act, feedback will be forwarded to the appropriate area.*

- *Are there other desired changes which should be contemplated to reduce administrative burden associated with managing prescribed notices and time frames, regarding current auto-enrollment requirements (e.g., s.29(2)(ii) of the Act and/or s.26 of the regulation)?*

We are strongly supportive of measures that would increase the ability of administrators to rely upon automatic features such as automatic enrolment and contribution escalation and would refer you to submissions that ACPM has made on the merits of automatic features in pension plans (Ontario - 1, Ontario – 2, Prince Edward Island). More express codification in the Act as well as amendments to the Employment Standards Code expressly enabling automatic payroll deductions upon enrolment in a pension or other group registered savings plan would serve to reduce uncertainty, administrative burden and provide employers with greater comfort that such features will not be subject to challenge by employees. This would ensure no real or perceived disconnect between the facilitating provisions of the Act and parallel employment standards legislation as it relates to the authority of an employer to direct payroll deductions in support of contributions to bona fide retirement savings arrangements.

21) Retention of Records

Section 34 of the Act requires the administrator of a pension plan to maintain certain records, and further requires that those records (or a copy of them) be retained in Canada. Some stakeholders suggest that as part of a transition to a paperless office environment, the retention of records within Canada may be difficult to guarantee in all circumstances.

Should the Act be amended to provide the Superintendent with the authority to exempt a plan, on a case-by-case basis, from the requirement to keep records in Canada, subject to any such terms and conditions as the Superintendent considers appropriate.

With the increasing use of evolving "cloud-based" data storage/management systems, consideration to amend the Act to provide greater flexibility on where the data/records are kept would be appropriate. However, the policy target should be for the consistent treatment across Canada for all personal or employment-related data. For example, it would be inconsistent to require pension plan records to be maintained in Canada without also requiring that all employment data of a plan sponsor also be maintained in Canada.

The establishment of terms and conditions or exemptions on a case-by-case basis by the Superintendent may not be easy and may result in ongoing inconsistencies. For example, administrators are, or may be considering, outsourcing call centers outside of Canada. In these cases, while data may be maintained in Canada, data is being used and shared outside of Canada.

22) Use/Transfer of actuarial excess or surplus

Should s.64 (Transfer of actuarial excess or surplus) of the Act, subsections (3) and (4), be amended to replace them with provisions that ensure that the members who must consent to the withdrawal of assets are the same persons impacted by that withdrawal under subsection (3)?

- *This section outlines the rules related to an employer's ability to transfer actuarial excess or surplus from the pension plan in certain situations. Where the authority to make the transfer does not unequivocally rest with the participating employer, a proposal to distribute the amounts must be sent to individuals who are entitled to benefits under the plan and the consent of at least 2/3rds of impacted individuals must be obtained.*

- *This change would ensure consistency between the Act and the regulation.*

Should s.65 (Use of actuarial excess) of the Act amend subsections (a) and (b) to clarify that these provisions only apply to defined benefit provisions?

- *This section originally referred to benefit formula provisions, (which include target benefit provisions); however, use of actuarial excess in target benefit provisions is much more restricted and it cannot be used to offset employer contributions.*

- *This change would clarify that offsets are only permitted with respect to actuarial excess related to a defined benefit provision.*

We are supportive of amendments to the Act which promote harmony and consistency between the Act and the Regulations, and therefore support the proposed amendments to subsections (3) and (4) of section 64 to ensure that the members who are impacted by the withdrawal are the same members from whom consent is being sought to the distribution proposal.

With respect to the proposed amendments to section 65, we are supportive of amendments to that section 65 that would clarify that the provisions apply only in respect of actuarial excess in a defined benefit provision. For clarity, however, we would not support amendments that would restrict the ability of the administrator to apply such actuarial excess in relation to the defined contribution provision of a plan that contains both a defined benefit and defined contribution provision.

23) Filing of Financial Statements

Should s.50 (Filing of financial statements) of the regulation be amended to remove the requirement for audited financial statements to include liabilities?

Further, should the requirement that audited financial statements be submitted annually, be amended to permit custodial financial statements to be submitted instead for non- CBMEPs and plans without defined benefit components with assets under $10 million?

- *These changes would be intended to reduce administrative burden for plan administrators.*

We believe that s.50 should be amended to indicate that accrued pension liabilities are not required to be included in audited financial statements for the majority of pension plans, as per EPPA Update 14-04.

We agree that filing custodial financial statements would suffice for non-collectively bargained multi-employer plans and plans without defined benefit provisions with assets under $10 million. Additionally, we would encourage the regulator to consider whether the filing of custodial financial statements rather than audited financial statements by other types of plans, such as plans with defined benefit provisions with assets under a particular threshold value, would also be satisfactory. The $10 million threshold suggested is in line with current Ontario regulations, but we suggest that there should be a consideration of whether a higher threshold is more appropriate.

24) Other

Do you have other ideas that can help to reduce red tape with regards to pension legislation and regulatory requirements?

We observe that significant burden is imposed on administrators in processing and, on occasion, verifying the completeness and accuracy of the forms received from members and pension partners (ex.: forms which have been signed but not witnessed, or forms which contain information contradicting other information in the member's file such as spousal status). Certain issues can be addressed through the streamlining of prescribed forms, but we believe it would also be to the advantage of plan administrators to be able to rely on provisions added to the EPPA which discharge it from further liability in the event that it relies on forms completed by the member and/or pension partner, as the case may be.

By way of example, where a member completes a form attesting that, at the date of pension commencement, he or she does not have a pension partner, the administrator should be entitled to rely on the accuracy of such information and receive a clear discharge under the EPPA from any further responsibility in the event that the member's attestation is or is alleged to be false. Currently, it is unclear what responsibility an administrator may have to verify this information, particularly where there may be conflicting evidence presented to it, and the administrative burden associated with addressing this potential legal liability could be reduced through the introduction of discharge provisions. In addition, the ability to rely on discharge provisions would, in many cases, facilitate a speedier settlement of pension benefits to the advantage of plan members and beneficiaries.

There appears to be some confusion as to whether or not there is a regulatory policy generally requiring the restatement of a plan text after five amendments have been filed (or concurrent with the filing of the fifth amendment). We would recommend that such policy be suspended (if it exists), in favour of a collaborative approach between the regulator and plan administrators to identify when the volume of amendments filed since the last restatement warrants the filing of a complete restatement. We note that there has been administrative flexibility applied in the past on this point, but its application is somewhat uncertain and a blanket rule of this sort does not adequately take into account the fact that it is not the number of amendments, per se, which make plan documents unwieldy to administer but rather the complexity and form of amendments (e.g., the deletion and replacement of whole sections versus more surgical amendments to individual sentences).

Consistent with our submissions in May 2020 to the President of Treasury Board and Minister of Finance regarding potential COVID-19 related relief measures, we continue to believe that there are other opportunities to relax the administrative burden on plan administrators without negatively impacting the benefit security of plan members and beneficiaries (ex.: improving the pension experience for plan members and their pension partners by reducing the "red tape" these individuals encounter in relationship breakdown situations). We draw your attention, in particular, to the following items from the Appendix to that submission:

- We recommend continuing focus on efforts to streamline the division of a pension in relationship breakdown processes, including reducing the number of statements provided to members/pension partners and moving to a simplified model based on the federal PBSA approach without limits on the amount that can be shared between pension partners in order to reduce the burden on administrators needing to confirm that family property orders or agreements conform with EPPA limits. At a minimum to limit confusion, we would recommend that the dates of Family Property Orders and Family Property Agreements that are subject to the EPPA rules be corrected, as the current dates were inadvertently preserved from the prior legislation.

- We also suggest that wording in the EPPA regarding the list of financial institutions where pension funds can be transferred be generalized, as the list becomes out of date with branding changes.

- Improving EPPA wording around prohibition against amendments that reduce accrued benefits in order to better clarify the extent to which benefits are "accrued" and protected and to reduce the amount of analysis required by plan sponsors to confirm that proposed amendments are EPPA-compliant.

- Simplifying wording for missing members and unclaimed benefits, including working with other government departments to augment the province's existing unclaimed property regime to accommodate transfers of unclaimed benefits from Alberta-registered pension plans. Amended language should include how plan administrators can discharge their obligations to plan members who refuse to accept their pensions, so as to assist plan administrators in meeting their obligations to plan members under the EPPA while providing a means of reducing the administrative burden associated with uncooperative plan members.

- The online cost certificate requires plan sponsors to include solvency valuation results in their submission. However, jointly sponsored pension plans in Alberta are not subject to solvency funding rules. Plan sponsors and actuaries have expressed concern that the current online cost certificate produces errors and is difficult to submit for pension plans not subject to solvency funding requirements. To make the online cost certificate experience more user-friendly, ACPM supports a separate cost certificate for jointly sponsored pension plans or a checkbox that can be checked by jointly sponsored pension plans which exempts them from completing the solvency valuation section.

- Revisiting some of the prescribed timelines for providing benefit statements/packages to take into consideration the practical aspects of plan administration, submission of employer data (even more in multi-employer plans) and the submission of complete documents from plan members. For example, 60 days for a benefit statement after all data and documents are received to proceed with a calculation, rather than 60 days from date of termination. Recalculation period should also be linked to when the benefit statement/package was made available in order to provide sufficient and reasonable time to the plan member for decision-making, rather than again linking it back to the termination date.

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Please feel free to contact us if we can be of further assistance.

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