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Via email: Pension.Feedback@ontario.ca

RE: Variable Life Benefits (VLBs)
(Proposal number 24-MOF023)

The ACPM is the leading advocacy organization for a balanced, effective, and sustainable retirement income system in Canada. Our private and public sector retirement plan sponsors and administrators manage retirement plans for millions of plan members, including both active plan members and retirees.

The ACPM has long advocated for better decumulation support for DC plan retirees. Please see our Decumulation Paper 2.0[1] for our thoughts on this important subject.

Before delving into the specific questions posed in the consultations, we would like to make three observations about VLBs.

(1) VLBs are vastly different from the most commonly used decumulation option, the Life Income Fund (LIF), or where available directly from a pension plan, the variable benefit option. The advantages of mortality pooling are a significant advantage of this new vehicle and should not be underestimated. In many ways, the VLB option is closer to a pension than a "benefit" or "income" option because the whole point of the fund is to provide lifetime incomes to participants in the pool, albeit with adjustments to reflect investment experience and mortality experience – in some ways similar to a target benefit pension plan. To avoid confusion, we would suggest using a term that is more distinct from "variable benefits" and more descriptive of the nature of the benefit. Some commentators have suggested the terms "variable life pensions" or "dynamic pensions" for this kind of payment option.[2]

(2) Secondly, in order for mortality pooling to be successful, only the larger DC pension plans will be in a position to offer VLBs. We observe that a pool of fewer than 100 lives will exhibit a moderate level of volatility from mortality experience. At 500 retirees and above, the volatility caused by mortality experience quickly reduces, and accordingly this is likely a

[1] ACPM Paper: Decumulation Paper 2.0
[2] See national Institute of Aging's Paper: Dynamic Pensions – National Institute on Aging.

reasonable target for a VLB fund. The variable benefit option is likely easier to establish and could be a stepping stone to a VLB option. Our research[3] suggests that if made available, only one in six to maybe one in five retirees might choose to allocate some of their retirement income to the VLB option. That being said, the VLB option may appear more attractive later in retirement, when a retiree's income needs to stabilize. At that stage in life, retired members often seek greater predictability of lifetime income and opportunity for investment growth through assets that they are not having to personally manage. They could also be structuring their estate planning around lifetime (VLBs) vs post-death assets (variable benefit account, home equity, TFSA and non-registered assets).

(3) Finally, given the significant advantages of a VLB and the fact that only the very largest DC plans (which make up a small minority of all DC plans) might have the scale and resources to directly offer a VLB option, the likely path for most Ontarians without a DB pension to this new pension option is the PRPP. In order to provide the greatest access to the option and improve the odds of the option being successful, Ontario PRPP legislation must support the option for DC retirees, or account holders (e.g., RRSPs, RRIFs, LIFs) to transfer a portion of their accounts to a PRPP. Both PRPP legislation and VLB legislation need to have simplicity and clarity in the regulatory environment, and harmonization of the legislated minimum standards across jurisdictions, in order to reduce the cost of compliance and increase the odds that sponsors and administrators will consider this new option. As we point out in our Decumulation Paper 2.0, "Complexity equals additional costs, which equal less funds for a CAP member to utilize for their retirement goals." On this last point, we firmly believe that legislation should support decumulation-only PRPPs that can be used at the point of retirement (or during retirement) through a transfer from other registered vehicles. With streamlined efficiency, such products could offer a simplified set of variable benefit and VLB options allowing retirees to optimize their retirement experience.

All this being said, we do support appropriate governance and disclosure to mitigate member risk, recognizing that VLBs are subject neither to DB minimum funding requirements, nor the capitalization rules appliable to annuity products.

Your Questions:

1. **The hurdle rate is used by a VLB provider to determine the size of the monthly payment. It is an important operational element of the benefit.**

   - **Should there be limits on the level or number of hurdle rates?**

     We do not believe there is a need to place a ceiling on the number of hurdle rates. Hurdle rates may vary based on economic conditions at the time a retiree is electing to allocate to a VLB. Accordingly, a VLB could have multiple hurdle rates applying to different individuals. That being said, more than two or three choices at the time of election would likely be too confusing. Plan sponsors should be encouraged to use a reasonable ceiling hurdle rate but a ceiling should not be defined in the legislation as different investment interest rate environments could result in different reasonable hurdle rate ceilings. In effect, the legislation should not try to stifle flexibility and adaptability of the VLB.

[3] UBC and University of Victoria variable life pension experience over the past few decades.

- **A hurdle rate other than the expected rate of return can add complexity to a VLB. Should it be required to approximate the expected rate of return of the investments? Why or why not?**

  While we can understand the thrust of this question, especially if a fund offers multiple hurdle rates at the time of pension commencement, the ACPM recommends against regulating the requirement to disclose an expected rate of return of the fund. Doing so would introduce additional complexity and administrative cost to prepare these return expectations and may introduce an element of confusion on the part of retirees thinking there is some sort of covenant or guarantee attached to that return expectation. Instead, illustrations could be provided by the VLB administrator showing the impact of different hurdle rates on the pattern of retirement income. Independent advisors could also guide retirees in the selection of the hurdle rate if multiple ones are offered at the time of pension commencement.

2. **Would annual investment adjustments and triennial mortality adjustments be appropriate?**

   - **Why or why not? Should alternative timelines be considered depending on the size of VLB?**

     This seems reasonable. Annual investment adjustments seem prudent in order to reduce intergenerational risk transfers. Allowing a longer time period for mortality adjustments on the other hand may be helpful, especially if the group is not that large. Requiring more frequent mortality adjustments for a smaller group could result in potentially unnecessary variability in income amounts and administrative costs.

   - **Should investment experience adjustments require an actuarial report certified by an actuary and filed with the regulator? Is a regulatory filing without an actuary sufficient? Why or why not?**
     No, an actuary is likely not required for the investment adjustments in models with a constant hurdle rate.

3. **Should mortality experience adjustments be set out in an actuarial report certified by an actuary and filed with the regulator? Why or why not? Should the mortality table be prescribed? Why or why not?**

   Yes, an actuary is likely best placed to certify the appropriateness of an actuarial table, experience adjustments and impact of adjustments to mortality tables. We do not believe the government should regulate the mortality table. Instead, the table selected by the actuary should rely on their professional judgement and guidance from the Canadian Institute of Actuaries.

4. **How much time is required to calculate the annual investment experience adjustment after the fund's year end? What would be a reasonable deadline to require notices of the annual investment experience adjustment be sent to members?**

   In cases where all the investments are publicly traded, audited financial statements may be available reasonably following the fiscal year end, allowing investment experience adjustments to be implemented within three to six months following the end of the fiscal year. In cases where a fund holds material investments in private markets, it may take somewhat longer to assess the fair value of the fund at fiscal year end and could take as long as 150 days to finalize the audited financial statements. In that scenario, a plan with a December 31 year end, could issue notices by the end of June with the first revised payments being issued August 1.

5. **What other requirements should be considered with respect to benefit adjustments under the fund?**

   The notices to retirees should include sufficient information as to discern the adjustments due to mortality experience, adoption of a new mortality table, and investment experience, and, if allowed by legislation and the plan document, adoption of a new hurdle return.

6. **A VLB may be able to offer a partial return of capital on death of the member, if the sum of the member's monthly receipts did not at least equal the capital invested. Should this be permitted or required in a VLB? How can this be provided, and does it raise any concerns?**

   We can see this as being a very reasonable death benefit option to retirees electing a VLB. Returning a partial return of capital on death is a feature that would need to be reflected in determining the initial payment amount (on an actuarial equivalent basis).

Your Family Law Question (Survivor Benefits)

Regarding your question under your family law heading, we note that the vast majority of DC retirees elect a LIF option, which does not automatically provide for a 60% lifetime survivor pension and instead only provides a return of the remaining assets to the spouse or beneficiary, as applicable. Accordingly, we do not believe VLBs should necessarily require a minimum 60% spousal survivor benefit (based on the last VLB payment the member received, adjusted for investment experience), even if other options can be provided with a spousal waiver. Instead, administrators should be free to select the variations in payment forms they wish to offer retirees electing the VLB (e.g. partial return of premium, guarantee period and pensions with a survivor option) with appropriate disclosure regarding any survivor benefits or residuals which may be payable on death.

Fee Restrictions and Disclosure requirements

1. **What is the most appropriate way to regulate the fees charged for the investment and administration costs associated with operating a VLB fund to ensure a VLB is operational but also protects members?**

   A breakdown of fees and expenses should be provided to retirees in their annual statements. We could expect line items for:
   - *investment management fees,*
   - *account administration expenses (representing expenses like actuarial advice, calculation and processing of benefit payments, and issuing tax receipts), and*
   - *fund operating expenses, such as asset custody, asset legal and audit expenses.*

   This level of detail should allow a retiree from comparing fees with other VLB options and competing products (such as mutual funds by comparing the management fees and fund operating expenses). Periodic reviews of these fees (e.g. against peer groups) would be expected under the general standard of care expectations under the Pension Benefits Act.

2. **In considering the three examples of disclosure above (VLB Option Statement, Annual VLB Statement, VLB Termination Statement), do they capture the relevant information that would be useful to members in understanding the benefits and risks of a VLB? Are there other disclosure or information requirements that would be valuable to members?**

   The VLB Option Statement should include sufficient information support an informed choice and to assist members in understanding the types of annual adjustments that will be made to the monthly payments and that they can be positive or negative. In other words, it should be clear *that the monthly payments are by no way guaranteed. If there are multiple hurdle rate options available at retirement, then illustrations showing how the different reference rates may affect the general trend of adjustments. On mortality adjustments, there should also be disclosures to help retirees understand that experience could evolve over time, and that if the VLB fails to retain a minimum number of retirees, it may be forced to terminate (and purchase life annuities for the remaining retirees.) Such disclosures and illustrations could be included in a generic brochure, not necessarily customized to the retiree's actual date of birth, marital status, etc., and the member may request further information if they wish to elect the VLB option, and/or a confirmation statement could be provided upon the VLB election setting out relevant, personalized information.*

The annual VLB statement should also identify when the adjustments will come into effect. It would be reasonable to prescribe a minimum notice period before the adjustment comes into effect, e.g. 30 or 60 days from the date of notice.

In considering the three examples above, are there additional events or circumstances that ought to require disclosures to members?

A VLB death statement should be provided to the survivor (i.e,. spouse, designated beneficiary, or estate as applicable) confirming the adjustment to the monthly payment (in the case of a joint-and-survivor-type benefit) and the lump sum payment to be made to a designated beneficiary or estate in the case of partial return of premium option.

3. **Are there any other approaches that the government should consider that would support informed decision-making and transparency in contemplating a VLB framework?**

   Illustrations showing multiple scenarios could be beneficial. These need not be prescribed by legislation, to allow for innovation and different ways of communicating this new benefit.

As noted, we believe the new variable life benefit option has the potential of materially improving pension coverage for Ontarians and would welcome the opportunity to engage further on the VLB legislation and regulatory environment.

Sincerely,

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