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

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Response to the Saskatchewan Negotiated Cost Pension Plan Consultation Paper

ACPM CONTACT INFORMATION

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TABLE OF CONTENTS

Foreword 3

Response to the Saskatchewan Negotiated Cost Pension Plan Consultation Paper 4

FOREWORD

ACPM (THE ASSOCIATION OF CANADIAN PENSION MANAGEMENT)

ACPM (The Association of Canadian Pension Management) is a national, non-profit organization acting as the informed voice of plan sponsors, administrators and their service providers in advocating for improvement to the Canadian retirement income system. Our membership represents over 400 companies and retirement income plans that cover more than 3 million 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 an appropriate mix of voluntary Third Pillar and mandatory First and Second Pillar components.

Third Pillar Coverage
Third Pillar retirement income plan coverage should be encouraged and play a meaningful ongoing role in Canada's retirement income system.

Adequacy and Security
The components of Canada's retirement income system should collectively enable Canadians to receive adequate and secure retirement incomes.

Affordability
The components of Canada's retirement income system should be affordable for both employers and employees.

Innovation in Plan Design
Canada's retirement income system should encourage and permit innovation in Third Pillar plan design.

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

Harmonization
Canada's pension legislation should be harmonized.

Questions and Responses per Section 9.0 of the Consultation Paper

1. **With respect to each Part, are there any additional concerns or considerations that you wish to identify?**

   None.

2. **Do you agree with the Principles?**

   Yes. The principles documented in 1.3 of the Draft are:

   - Pension Sustainability
   - Benefit Security
   - Equity and Transparency
   - Flexibility

3. **Do you agree with the proposed funding requirements, including the method of calculating the PfAD?**

   There are numerous ways or methods but, in general, we agree with the concept of the margin (Provision for Adverse Deviation is the dollar amount of margin) varying with the asset mix. In particular, the margin increases as the risk of the portfolio increases. We would advise against making the margin calculation overly complex. ACPM would recommend that the PfAD be determined by reference to plan assets only and not the second component in the discount rate. This is consistent with the feedback that ACPM has supplied to Québec and it reduces the complexity and helps improve the understanding of the PfAD.

   In terms of the potential for abuse of using an inappropriate going concern discount rate (i.e. too high), we note that the plan actuary is required to set the going concern discount rate in accordance with the CIA's Standards of Practice and the Regulator has the authority to request the actuary to provide additional information to support the use of a given discount rate.

   We like the principles stated in section 2.4 of the Draft and in particular that "The PfAD should be built up during times of favourable plan experience and drawn upon during times of adverse plan experience."

   We believe the plan actuary and the Board of Trustees are in the best position to determine the most appropriate level of PfAD for the particular plan taking into account the specific characteristics of the plan.

There is a lack of clarity in the Consultation Paper on the PfAD in the Current Service Cost. In the calculation of the PfAD, we refer to “equity allocation” and “non-equity allocation”. The document should elaborate on what is considered “equity”. As per Québec Bill 57, some asset classes offer some equity characteristics and some fixed income characteristics and we may need to apportion a specific asset class like Real Estate or Infrastructure between “equity” and “non-equity”.

We would ask the Superintendent to reconsider adding an additional PfAD for a discount rate that differs from a certain benchmark. The discount rate is usually derived from the fund’s asset mix and the discount rate PfAD could be integrated in the initial PfAD established for the equity allocation. Markets are very dynamic and each plan has a unique way to manage risk, so a PfAD on the discount rate versus a discount rate benchmark could cause the funding policy to be very unflexible at the plan level.

4. **Should the rules be more prescriptive regarding the funding policy for an NCPP (e.g. require that such plans have a funding policy; set-out the minimum contents of a funding policy)?**

We would prefer less prescriptive. More principles based. This would facilitate the characteristics of each plan to determine the best approach to meet the principles.

Require a governance policy be developed for each NCPP. The Trustees to determine the governance policy that is most appropriate for the plan. The Trustees can seek professionals to assist them in developing the governance policy.

5. **Is the stress testing an appropriate way to understand the risk of an NCPP?**

We like stress testing to be applied to plans. The plan actuary and the Board of Trustees are in the best position to develop the most appropriate stress testing.

It might be difficult for plan members and trustees to understand the stress testing and how to use the stress testing results in the decision making. But that should not be a reason to avoid stress testing.

6. **Do you agree that a NCPP should have AGCE in order to improve benefits?**

Yes. NCPPs need excess (Available Going Concern Excess) to manage through periods of adverse experience. The exact amounts may be subject to debate but the concept is sound.

7. **Do you feel that there should be rules in the Regulations regarding the order of benefits to be reduced to meet the solvency tests?**

   Why reference solvency tests?

   The plan trustees, working with the plan actuary, are in the best position to determine which benefits should be reduced first. Maintaining flexibility at the governance level is important and the Superintendent still has the flexibility to review and ask for a revision on the priority of benefits.

   The plan text should be required to specify the order of benefits to be reduced when circumstances require benefits to be reduced. The trustees should be provided the flexibility to determine this order but again this order should be specified in advance and documented in the plan text. The regulator could provide guidance or principles to guide the trustees when determining the specific order that the specific plan would use in the event that benefit reductions would be required.

8. **Would the NCPPs that you are involved with be interested in GC CVs?**

   No comment from ACPM. We are providing our comments on all plans not in relation to any specific plan.

9. **Are there any significant issues respecting preparation of an AVR, member communications, or inequity where an NCPP provides for both methodologies of calculating commuted values (i.e. CIA CV and GC CV)?**

   There should be no significant issues in the preparation of the AVR (Actuarial Valuation Report). Member communications could be challenged. Having two methods for calculating commuted values will most likely cause confusion with some members. This will be mitigated over time as more commuted values in the future will be based on the GC CV method and eventually the benefits based on the CIA CV will be paid out and future service will all be based on the GC CV.

   An additional thought would be to give the Board the option to discontinue the CIA CV basis immediately. This might result in a loss of value to a particular plan member but would not result in a loss of pension benefit. This option would clarify that the focus in an NCPP is the promised pension benefit and not the variable pension value.

10. **What are you views on the proposed methodology used to calculate the GC CV?**

    ACPM recommends using the GC CV as the only basis for settling benefits via a lump sum transfer. The primary benefit from a defined benefit pension plan, a monthly pension payment, does not depend on the use of a commuted value basis.

Advantages of using GC CV

- Reflects the amount of assets (proportionate basis through the use of funded ratio) available from the plan's portfolio to settle the member's obligation.
- Member has options. Can choose to leave benefit in plan and receive a pension (immediate or deferred).
- Mitigates actuarial losses to the plan for terminations when the actuarial basis produces a much larger liability than under the Going Concern basis. (this is currently the case, but has not always been so, many years ago the solvency discount rate was higher than the going concern discount rate)

Disadvantages of using GC CV

- Member will have a different termination basis than non-NCPP plans in Saskatchewan and the rest of the country.
- Increases the administration complexity.
- If a PFAD is added to the liability and the plan has a deficit, a terminating member is essentially paying a termination fee equal to the proportion of the liability due to the PFAD (e.g., if liability without PFAD is $90,000 and $100,000 with PFAD, then if assets are $90,000, a terminating member would receive only 90% of their benefit even though the plan is fully funded without a PFAD).

11. **Given that members could be entitled to a GC CV (a CV that reflects the funded status), should plans that provide use of the GC CV methodology be required to file periodic updates on their funded position to ensure that commuted values more accurately reflects the funded position of the plan at the time of transfer?**

It should be reasonable to use the most recent funded ratio available. Providing for updates could lead to a cycle of providing more and more current updates (with an extreme case of updating daily).

Members should be informed of the plan provisions. Member communication, although difficult to engage members, is important. Periodic updates would add administration cost and complexity. If the primary focus is on a monthly pension benefit from the plan, with secondary focus on a lump sum, then using the funded ratio in the most recently filed AVR would be a reasonable accommodation. The member is not required to receive a lump sum as it is at their option. If the member is not satisfied with the GC CV then the member need not exercise that option and would then receive the benefit that was originally designed to be provided, namely, a monthly pension for the members' life (with possibly survivor benefits).

One possible concern is an extreme drop in the value of financial markets. This could lead to anti-selection by plan members who try to cash out before taking a hit to their commuted value. If this is a concern, solutions can be derived to address this concern.

12. Should the ability to convert past benefits to benefits calculated using the GC CV methodologies be provided at this time to NCPPs?

Yes. ACPM believes that the GC CV methodology should be applied to all benefits (past & future) for benefits settlements on and after the effective date of the legislation. Allowing the GC CV basis for both past & future service reduces the administrative and member communication complexity and while not impacting the main benefit provision of the plan which is a monthly pension on retirement.

This only affects those members terminating and taking the lump sum option. The current solvency discount rates result in a higher CV than would most likely occur with the GC CV. But, this could change if interest rates increased and thus the CIA CV could result in lower lump sums that GC CV in the future. Nevertheless, think about the lump sum as a benefit that happens to change over time. Of note, CIA CVs are currently providing lump sums in excess of what would be required to purchase an annuity from an insurance company (look at the CIA CVs and the Annuity Purchase proxy).

13. Is the communications framework appropriate for NCPPs?

The biggest challenge will be the communications with plan members. Difficult to explain but at the same time required. It is important for these plans to effectively communicate to plan members the plan provisions, the structure of the pension deal, the risks to plan members, transition provisions and their rights. This is a reasonable approach but NCPPs will need to be realistic and engaging with plan members when communicating with them.

14. Should there be more or less rules regarding NCPP governing bodies (Administrator and/or sponsor)? For example, should the regulations prescribe the proportion of plan members and retirees, presence of independent trustees, required knowledge and skills, etc.?

We suggest a principles based approach (as opposed to a prescriptive approach).

Generally, having some independent trustees is considered good Board governance. In addition, Boards require a variety of skill sets.

Unless appropriate remuneration is made available, the recruiting of independent and experienced individuals with varied professional skill sets (investment, accounting, legal and actuarial) will be a challenge for pension Boards. These individuals have realized that the compensation as a service provider (actuary, investment manager, lawyer & accountant) is more lucrative. However, some larger pension plans in Canada are starting to recruit and compensate professionals to serve as independent trustees on pension Boards.

Increasing the diversity of skills on a Board and increasing the Board's effectiveness in plan governance has the potential to improve the decision making of NCPPs (and all other plans). Retired professional advisors could be a source from which to recruit. In addition, encourage education and training of current trustees. A reasonable budget for training and education is expected and encouraged.

15. Should the legislation or regulations be more prescriptive regarding the governance policy for NCPPs (e.g. require that such plans have a governance policy; set-out the minimum contents of a governance policy)?

Suggest a principles based approach. Require a governance policy be developed for each NCPP. The Trustees would determine the governance policy that is most appropriate for the plan. The Trustees can seek professionals to assist them in developing the governance policy.

16. Is the transition framework appropriate? Have all issues been addressed?

One AVR cycle might be too quick. Suggest transitioning over two triennial valuations. Have a waiver on benefit reductions for at least two AVRs.

17. Do you agree with transitioning the PfAD on the CSC over a 3 year period?

Most likely too quick. The plans need time to build PfADs. Suggest five plus years or at least two triennial actuarial valuation periods.

18. Do you feel the "Enhanced Going Concern" option would be an acceptable regime as opposed to the Proposed Regime?

No. The Saskatchewan Enhanced Going Concern option was designed mostly for non-NCPPs. The Proposed Regime has a better fit for NCPPs.

19. Should a framework similar to the Proposed Regime be an option available to other types of pension plans registered under the Act?

The Proposed Regime should only be available to target benefit plans and NCPPs although the GC CV option might be considered for all defined benefit plans. Having the same basis to determine the lump sum to transfer from a defined benefit provision would reduce complexity and mitigate communication issues that could occur with multiple basis for lump sum determination.

20. What issues do you foresee will need to be addressed with respect to the GC CVs and multi-jurisdictional plans?

Plan members' benefits are determined in accordance with the plan provisions (as documented in the plan text) and the pension legislation as it affects individual entitlements in the province of residence.

This is less of an issue as most of these plans only have members in a single province.

The principles and suggestions in this Consultation Paper, in our opinion, are a positive for NCPPs so should not be a reason to not proceed. The solution is to have the NCPP pay the CV based on the applicable pension laws in the member's province. Again, most NCPP's do not have many members in other jurisdictions so should not be a material amount of commuted values.

Non-NCPPs would typically have more members in other jurisdictions so it would be bigger issue to deal with.

21. Please provide any additional comments or information related to this paper.

The plan text should be required to specify the order of benefits to be reduced when circumstances require benefits to be reduced. The trustees should be provided the flexibility to determine this order but again this order should be specified in advance and documented in the plan text. The regulator could provide guidance or principles to guide the trustees when determining the specific order that the specific plan would use in the event that benefit reductions would be required.

August 2, 2016

Via email: tami.dove@gov.sk.ca

Tami Dove
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Dear Ms. Dove:

Re: Saskatchewan Negotiated Cost Pension Plan Consultation

I am writing on behalf of the Canadian Bar Association's Pensions and Benefits Law Section (CBA Section) in response to the Consultation Paper on the Proposed Regime for Negotiated Cost Pension Plans (NCPPs) issued by the Financial and Consumer Affairs Authority of Saskatchewan.

The Canadian Bar Association is a national association of approximately 36,000 lawyers, Québec notaries, students and law teachers, with a mandate to promote improvements in the law and the administration of justice. The CBA Section comprises lawyers from across Canada who practise in pensions and benefits law, including as counsel to benefit administrators, employers, unions, employees and employee groups, trust and insurance companies, pension and benefits consultants, investment managers and advisors.

The Consultation Paper describes in Parts 1 through 6 the substantive components of a new Proposed Regime for NCPPs. Part 7 describes the rules for transition from the current regime to the Proposed Regime. Part 8 describes an alternative to the Proposed Regime and identifies additional considerations for the impact of changes on multi-jurisdictional pension plans and the possibility of expanding the Proposed Regime to other pension plans registered in Saskatchewan. Part 9 identifies 21 questions to which the Consultation Paper seeks a response.

The CBA Section's comments are organized according to the specific questions in the Consultation Paper. We first set out general principles that guide our comments.

Guiding Principles

The CBA Section is guided in its comments by several factors and principles relating to the administration and regulation of multi-employer pension plans (MEPPs) in Canada:

1. MEPPs have different needs and circumstances from single employer plans, including:
    a. the often transitory nature of employment of members among participating employers; and
    b. contributions are outside the control of plan trustees, and reside in the hands of the collective bargaining parties.
2. Retirement security is a key objective.
3. Administrative complexity increases plan costs which directly affects the availability of plan assets for benefits.
4. Good governance must be encouraged but what constitutes good governance should not be mandated.
5. Benefit adequacy is important.
6. Adequate disclosure to plan participants is critical.
7. Consistency and harmonization of MEPP regulation in Canada should be encouraged.

Comments on Consultation Paper

Responses to the specific questions in the Consultation Paper follow our general comments. We indicate where do not have a position.

General Comments

The Proposed Regime imposes a set of rules that are a "one size fits all" solution for all MEPPs when MEPPs vary substantially from each other in important ways. What may be reasonable for a large national industrial plan may make less sense for a local construction industry plan. Flexibility is a more appropriate approach than strict rules. The plan trustees of MEPPs, with the assistance of their advisors, should be presumed to have the necessary knowledge to make decisions that reflect the particular needs and interests of the plan's participating employers and members.

The CBA Section generally supports innovative and new plan design but is cognizant of the administrative challenges for multi-jurisdictional pension plans when regulatory regimes differ from jurisdiction to jurisdiction. The CBA Section supports harmonization to the extent possible (and ideally as much as possible), while recognizing the different needs of MEPPs. Because of this, the CBA Section supports the elimination of the solvency funding requirement for NCPPs, and favours the enhanced going concern approach (the alternative to the Proposed Regime canvassed in the Consultation Paper) because it is consistent with the approach in other provinces, and is the approach recently put in place for other solvency-exempt pension plans in Saskatchewan.

Similarly, for the calculation of transfer values – commuted value (CV) calculations on termination – the CBA Section supports the proposed change that would permit CVs to be calculated on the basis of a going concern model rather than a solvency model. Given the introduction of new target benefit regulatory rules in British Columbia and Alberta and shared-risk rules in New Brunswick, which permit similar treatment of the transfer value, we support a change harmonized with those jurisdictions. Further, to the extent that a going concern CV approach encourages members to leave their benefit entitlements in a pension plan, it enhances benefit security by preserving the defined benefit pension as intended by the sponsors.

Specific Responses to Consultation Paper Questions

Part 1: Introduction & Background

Q 1 With respect to each Part, are there any additional concerns or considerations that you wish to identify?

Comments have been added in each response, as applicable.

Q 2 Do you agree with the principles?

The Guiding Principles of the Consultation Paper are in section 1.3. We comment as follows:

- **Pension sustainability** as defined in the Consultation Paper – that an NCPP must provide benefits at a reasonable cost to plan sponsors and members – is, a laudable goal, but not feasible given the funding structure: NCPPs are, by definition, negotiated with employers on behalf of workers; funding of the plan is fixed by contract and benefits are those the negotiated contributions can pay for. It is of course important that NCPPs be as cost-effective as possible and that its administration be kept at a manageable level. However, benefit adequacy and security is a more relevant goal.
- **Benefit security** is important for an NCPP, as for all pension plans, and a reasonable level of benefit security can be achieved for this particular plan design by the elimination of the solvency funding requirement in combination with an enhanced going concern approach.
- We agree that **equity and transparency** are important. Intergenerational equity is an important goal for NCPPs. As in all pension plans, appropriate levels of disclosure and transparency are important for plan participants to understand risks and entitlements.
- We agree that **flexibility** is an important guiding principle, particularly in the MEPP world. The size and sophistication of MEPPs varies widely and it is critical that plan decision makers be given latitude to make decisions appropriate to the circumstances of their plans.

Part 2: Funding

Q 3 Do you agree with the proposed funding requirements, including the method of calculating provisions for adverse deviation (PfAD)?

The CBA Section supports the elimination of solvency funding requirements for NCPPs as this is consistent with the trends across the country and would assist in harmonization. If solvency funding is eliminated, we do not believe that NCPPs should be required to continue to calculate the plan's solvency funding position. While some NCPPs may choose to do so for informational purposes, NCPPs should not be required to incur the cost of the calculations given that they are not required to be funded on a solvency basis. If, however, NCPPs are required to continue to calculate the plan's solvency funding position for informational purposes, we do not support a requirement to include the calculation in any report filed with the regulator or any requirement to otherwise report the calculation to plan members. Reporting to members could be misleading because it would not necessarily be clear to members that the plan is not being funded on a solvency basis.

The CBA Section has no comment on the method of calculating the PfAD and defers to commenters with actuarial experience. As noted in our response to question 17, the CBA Section does not support the PfAD concept as presented in the Consultation Paper.

Q 4 Should the rules be more prescriptive regarding the funding policy for an NCPP (e.g., require that such plans have a funding policy; set out the minimum contents of a funding policy)?

A "funding policy" is not particularly relevant for an NCPP because funding is determined by the bargaining parties, not the trustees of the plan. A more appropriate term would be "benefit policy" as those matters are in the control of the trustees. As a matter of good governance, it may be desirable to have a benefit policy in place with specific priorities for benefit changes, should they be required. However, the need to reduce benefits can arise in different circumstances and a set of prescriptive rules may inevitably lead to less than optimal decisions. Accordingly, it would be undesirable to mandate the contents of any benefit policy, constraining benefit decisions.

Q 5 Is stress testing an appropriate way to understand the risks of an NCPP?

Stress testing should not be required of NCPPs. As fiduciaries, the plan trustees have obligations to monitor and manage their plans and should be encouraged to do so as a part of good governance. However, the utility and appropriateness of stress testing in any given plan and circumstances will vary widely and should be the decision of the trustees. It may add administrative complexity and cost that is simply unwarranted in particular circumstances.

Part 3: Benefit Improvements & Benefit Reductions

Q 6 Do you agree that an NCPP should have AGCE in order to improve benefits?

The CBA Section does not support a formulaic "one size fits all" rule that substitutes a universal formula for a plan-specific consideration of the risks and benefits in the circumstances of a decision to improve benefits.

Q 7 Do you feel that there should be rules in the Regulations regarding the order of benefits to be reduced to meet the solvency tests?

Similar to our views on question 4, the CBA Section does not support mandatory priorities for benefit reductions. Plan decision-makers for these widely variable plans should have the flexibility to react to their specific circumstances. For example, reductions may be needed due to factors like declining employment, changes in mortality, changes in retirement patterns or investment losses. Some of those causes are related to active employees, others are not. Judgment is required to achieve a fair balance among plan participants and that judgment can only be exercised by the plan trustees. It should not be set out in regulatory rules.

Part 4: Benefit Types

Q 8 Would the NCPPs that you are involved with be interested in GC CVs?

Members of the CBA Section involved with MEPPs and NCPPs support a GC CV model as it encourages leaving one's pension entitlement as a deferred defined benefit and avoids treating terminated employees more favourably than continuing employees if a benefit reduction is required. Moreover, this approach is consistent with that under development or adopted in other jurisdictions, and is consistent with the manner in which pension benefits are funded.

Q 9 Are there any significant issues respecting preparation of an AVR, member communications, or inequity where an NCPP provides for both methodologies of calculating commuted values (i.e., CIA CV and GC CV)

We discourage permitting NCPPs to provide for both methodologies of calculating CVs. AVRs will be more complicated if both methodologies are permitted, and to the extent that an AVR is more complex and expensive to produce because of complicated and onerous regulatory rules, a plan's resources are directed away from benefits. Unnecessary and costly administrative burden should be avoided.

In addition, inequities amongst members or categories of members will arise if both approaches are permitted in any one plan. The challenge of communicating the rationale and impact of a different approach for different members will be high, and it will be difficult to avoid confusion.

Q 10 What are your views on the proposed methodology used to calculate the GC CV?

The CBA Section has no comment. We defer to those with actuarial expertise on this question.

Q 11 Given that members could be entitled to a GC CV (a CV that reflects the funded status), should plans that use the GC CV methodology be required to file periodic updates on their funded position to ensure that commuted value more accurately reflects the funded position of the plan at the time of transfer?

The CBA Section supports a process (similar to that employed in Ontario), requiring a simplified updating process on a quarterly basis that is primarily or exclusively driven by asset changes and does not require updated actuarial liability calculations which increase administrative costs to the plan. This promotes the goal of harmonization.

Q 12 Should the ability to convert past benefits calculated using the GC CV methodologies be provided at this time to NCPPs?

The CBA Section has no comment.

Part 5: Communications

Q 13 Is the communications framework appropriate for NCPPs?

The CBA Section supports full and transparent provision of information to plan participants. We caution, however, that lengthy or complex communications are often counter-productive. The requirements of subsection 5.1, with proposed required explanations of technical matters, may not be useful or understandable by plan participants. We suggest that additional disclosure under the Proposed Regime consist only of:

- the NCPP's going concern funding ratio, and a statement that transfer values will be paid based on that ratio, which may be updated from time to time (for plans using the GC CV); and
- a statement that benefits, in the event of adverse plan experience, can be reduced.

Part 6: Administration & Governance

Q 14 Should there be more or less rules regarding NCPP governing bodies (administrator and/or sponsor)? For example, should the regulations prescribe the proportion of plan members and retirees, presence of independent trustees, required knowledge and skills, etc.?

There should be no rules constraining the composition of NCPP governing bodies beyond a requirement that at least 50% of board members represent plan members. The CBA Section does not support regulations prescribing the proportion of plan members and retirees on governing bodies, nor mandating the presence of independent trustees or required knowledge and skills.

It would not be appropriate to require any particular constituency to be represented by a voting trustee because trustees are required, given the fiduciary nature of their position, to represent all plan members in an even-handed way.

Having independent trustees on a governing board is not objectionable *per se* but there is no value in compelling their presence given that the more important criterion for NCPP trustees is sufficient knowledge of the industry in which the plan is engaged, or its employers or workers. Moreover, independent trustees typically require payment, which would deplete plan assets otherwise available for benefits.

The CBA Section also does not support the imposition of required skills and knowledge for trustees. For NCPPs and MEPPs generally, it is typically most important that a trustee have knowledge of the industry in which the plan is engaged. Expertise in the administration of pension plans can be achieved through education, experience and retention of capable advisors, and MEPPs are currently governed in accordance with those principles.

Q 15 Should the legislation or regulations be more prescriptive regarding the governance policy for NCPPs (e.g. require that such plans have a governance policy; set out the minimum contents of a governance policy)?

The current CAPSA guidance making it a best practice to have a governance policy in place is sufficient and such matters should not be mandated by legislation, nor should the contents of a governance policy be mandated.

Part 7: Transition Rules

Q 16 Is the transition framework appropriate?

The CBA Section:

- has no comment on the applicable date and transition report proposal outlined in Section 7.1 of the Consultation Paper;
- agrees with the process proposed by the Government for changes to the transfer value calculation methodologies; and
- does not support the restriction on benefit improvements in the Consultation Paper.

Q17 Have all issues been addressed? Do you agree with transitioning the PfAD on the CSC over a 3 year period?

The CBA Section does not support the PfAD concept as presented in the Consultation Paper and has no comment on the proposed transition to it. In our view, the PfAD should not be implemented at all, as it is inflexible and unduly constrains plan trustees.

While we understand that the purpose of the PfAD is to reduce the risk of benefit reductions and enhance the sustainability of NCPPs, these measures can add complexity and cost to NCPP administration, reducing funds available for benefits. The policy goal of a proposed PfAD is understandable. However, we question whether the complexity and cost of administering the PfAD is consistent with the broader goals of facilitating effective use of pension plan contributions, efficient pension plan administration and broader participation in NCPPs. In our view, it is critical to require clear communication of the nature and implications of membership in an NCPP, so members can plan appropriately for their retirement, with full information.

Part 8: Additional Considerations

Q 18 Do you feel the "Enhanced Going Concern" option would be an acceptable regime as opposed to the Proposed Regime?

We believe that the enhanced going concern model is preferable to the proposed NCPP regime for reasons of harmonization and consistency with other MEPP regimes across the country, and should include the following additional components:

- the GC CV should be permitted;
- any limitations on benefit improvements should be flexible and based on the relationship between projected contributions and actuarial costs, not on the funded ratio;
- reducing the amortization period from 15 years to 10 years is preferable to continuing solvency funding but this forces lower benefits (given a contribution income is fixed) than a MEPP might otherwise be able to afford, and is likely to encourage intergenerational inequity as described above.

Q 19 Should a framework similar to the Proposed Regime be an option available to other types of pension plans registered under the Act?

Given the concerns we raised about the Proposed Regime, we do not advocate its application for pension funds registered under the Act.

Q 20 What issues do you foresee will need to be addressed with respect to GC CVs and multi-jurisdictional plans?

In the interests of harmonization, the CBA Section is concerned with any mandated differences and benefit rules that vary by jurisdiction for multi-jurisdictional plans. Trustees of these plans will likely ensure consistency across jurisdictions if it is not provided by regulation. To the extent that requires the downward adjustment of benefits, it is undesirable.

Similarly, the CBA Section does not support funding rules applicable to MEPPs that differ by province.

Part 9: Closing Comments

Q 21 Please provide any additional comment or information related to this paper.

None.

The CBA Section is pleased to have this opportunity to comment on the Proposed Regime and trusts that our comments are helpful. We would be pleased to discuss any of the above in further detail.

Yours truly,

(original letter signed by Gillian Carter for Michael Wolpert)

Michael Wolpert
Chair, CBA Pensions and Benefits Law Section

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Financial and Consumer Affairs Authority of Saskatchewan

RE: Consultation Paper on Negotiated Cost Pension Plans (NCPPs)

This submission is prepared on behalf of the participants in the Bricklayers and Allied Craftworkers Pension Fund of Alberta and Saskatchewan (the "Plan"). The multi-jurisdictional Plan has in excess of $125 million in assets and covers more than 2,000 participants, about half of which are active members. Approximately 75% of the Plan is in respect of Alberta employment, with the 25% balance representing Saskatchewan employment.

Since the majority of participants are employed in Alberta, the Plan is registered in Alberta. As such, the majority of the items addressed in the consultation paper do not apply to our Plan. Instead, we have focused on the one key item that does affect our Plan, being the payment of commuted values.

For some time now, we have expressed concerns to the Alberta regulator regarding the inappropriateness of the current commuted value rules, which are resulting in excessive payments to terminating participants. We believe this must be addressed to ensure equity amongst all the Plan beneficiaries to which we owe a fiduciary duty of fairness.

To give you a sense of our concerns, we recently amended our Plan to reduce accruals for short service participants, as there was some evidence to suggest participants were intentionally and deliberately managing their participation in the Plan in order to receive the excessive commuted value payments. Simply put, these members were gaming the system to avail themselves of overly generous commuted value payments. Since all Plan benefits are supported and funded from a single pool of assets, the excess payments made to these participants come out of the pockets of the remaining participants. As a Board, we cannot justify paying excessive amounts to certain individuals and we took action to minimize these overpayments.

While we are hopeful new legislation to be adopted by Alberta this fall will address our concerns in respect of Alberta employment, the proposed regime outlined in your paper would leave us with another subset of members eligible for excessive commuted value payments, being anyone eligible for portability who was last employed in Saskatchewan. Unless the proposed regime is changed to permit the application of going concern commuted value calculations to all service, we will likely be in a position where other reductions to Saskatchewan member benefits will be enacted in an attempt to maintain fairness and equity amongst all our participants. The adoption of a lower tier of benefits for Saskatchewan members is not our desired course of action as it is by far the least palatable, least efficient and least effective solution to the problem. We strongly urge the government to adopt appropriate commuted value standards for all past and future benefit accruals provided by NCPPs. This is simply the right thing to do.

Thank you for the opportunity to provide input on this important piece of legislation.

Sincerely,

Board of Trustees

CARPENTERS' PENSION FUND OF SASKATCHEWAN

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Pensions Division
Financial and Consumer Affairs Authority of Saskatchewan

RE: Proposed Regime for Negotiated Cost Pension Plans (NCPPs)

We are writing on behalf of Carpenters' Pension Fund of Saskatchewan (the "Plan"), which is one of the six NCPPs registered in Saskatchewan. While we are encouraged by the potential offered by the consultation paper and are generally supportive of the proposed regime, we do have some reservations and a serious concern in respect of the lack of retroactivity of the going concern commuted value component of the regime. More detailed comments follow below.

Permanent Solvency Funding Relief

First and foremost, we are fully supportive of the proposed permanent solvency funding relief included as part of the new regime. Even though our Plan has never needed relief from the legislated solvency funding requirements, prudence has forced us to maintain higher levels of margin than are reasonably necessary to govern the Plan properly. Consequently, the levels of benefits we have credited to our participants have been restricted and our participants have not fully enjoyed the benefits of their work and the contributions remitted on their behalf. We also note that solvency funding does not in fact provide benefit security for NCPPs. For pension plans that are well managed, solvency-funding requirements increase the risk and likelihood of benefit reductions.

Harmonized Legislation

We are fully supportive of harmonized legislation across jurisdictions. To this end, we are happy that the proposed regime follows the framework already adopted by British Columbia and Alberta, but we are troubled hat the proposal does not to provide retroactivity as was done in British Columbia. Alberta had also intended on providing retroactivity all along but their plans changed due to complications arising from its potential application to the public sector. It is our understanding that Alberta will be readdressing the legislation this fall to provide full retroactivity for NCPPs. We strongly urge the government to reconsider this aspect of the proposal.

Going Concern Commuted Values

The application of the current CIA based commuted value rules is leading to windfall payments for all terminating participants. By definition, any plans funded through negotiated or fixed contributions cannot guarantee the security of all benefits. It is inappropriate to calculate commuted values assuming such benefits are guaranteed. The excessive payments to departing participants are being funded by the remaining participants, which includes the pensioners and other beneficiaries. In other words, the departing participants are taking more than their fair share of the pie, leaving the remaining participants with less than their fair share. This would never be a permitted consequence in the event of a full plan windup, where each subset of participants would be treated equally, and yet the current commuted value rules are triggering in the same inappropriate outcome at every year-end when all the membership terminations (i.e. a mini partial wind-up) occur simultaneously. As trustees who have a fiduciary duty to treat all beneficiaries evenhandedly, the legislation is hampering our ability to fulfill our duties properly. While the adoption of going concern commuted values for future

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accrued benefits is a positive step forward, the impact will be negligible over the short term and the Plan will continue to pay out windfalls unless retroactivity is permitted.

Problematic Implementation

Unless NCPPs are permitted to fully convert retroactively, we foresee legal problems and issues arising from the two-tiered approach currently included in the proposed regime. All benefits would be subject to a single funding model and yet the value of accrued benefits will be tiered between old and new accruals. In the event an NCPP were ever required to reduce benefits, the trustees would be in a position to decide whether or not to reduce new benefits or old benefits. There would be an obvious advantage to reducing the old benefits first in the spirit of achieving proper evenhandedness. This would lead to other equity issues and potential legal challenges. All of this can be avoided by addressing the retroactivity aspect at the outset.

Benefit Improvements

We believe the requirement to have Accessible Going Concern Excess (AGCE) before current service enhancements can be implemented is a flaw and contrary to the best interests of all Plan beneficiaries, even those beneficiaries that would not benefit from the enhancements.

A pension plan's ability to bear investment risk and deliver a reasonable risk/reward relationship over the long term is closely tied to contribution levels. Immature pension plans can assume a very long-term outlook and can invest more heavily in volatile and illiquid investments, which should enhance overall returns over the long term. A plan with minimal or no contributions is very limited in its ability to bear investment risk, pushing the plan to a low risk, low return liability driven investment strategy. Realistically speaking, it will be impossible to secure any type of increases in contribution rates at the negotiation table unless the negotiating parties can secure something tangible for the participants. Increasing the likelihood of potential benefit enhancements that are 5, 10 or 15 years down the road is not a tangible benefit. Contribution rate increases simply will not occur and NCPPs will be pushed into maturity at a much faster pace than necessary, at the cost of all plan beneficiaries. If a plan has been fortunate enough to build up the required AGCE through favourable investment experience, there will be no industry support to divert additional funds from wages into a pension plan that is overfunded. Here again, contributions will remain fixed and the plans will mature much faster than necessary.

It is our belief that any change in current service benefits should be permitted where additional funding is secured to offset the increase in the current service costs, regardless of the existence of AGCE or not. This is the approach adopted by both British Columbia and Alberta and we do not understand the logic of the approach being proposed by Saskatchewan.

Other Pragmatic Issues Arising from PfAD Requirement

Similar to our position on current service enhancements, we believe some level of accrued enhancements should be permitted in the absence of AGCE. Our Plan has a history of providing periodic ad hoc cost-of-living adjustments for our pensioners and we are proud of supporting our pensioners and their ability to maintain their standard of living as they age. The proposal forwarded will make the delivery of future cost-of-living adjustments difficult and very unlikely.

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We believe there are other options that can both enhance benefit security while providing incentive to seek more adequate pensions over time. Instead of a single point in time measure of AGCE, the test could be based on a higher target that is 10 years down the road. For example, instead of a 20% PfAD requirement today, allow an alternative 30% PfAD target that is expected to be attained over 10 years. This would provide the required incentives to increase future contribution levels to keep pace with inflation.

As this recommendation is different from the approach already adopted by British Columbia and Alberta, we suggest you speak with representatives of those jurisdictions to seek a common approach that will benefit all NCPPs and their beneficiaries.

Closing

For an NCPP facing benefit reductions due to solvency funding requirements, the adoption of the proposed regime is a significant step forward. When you consider our Plan's situation and history however, one can argue the proposed regime is a step backwards. The key practical implications, unless our concerns are addressed, are as follows:

- ✓ Reduced risk of benefit reductions due to short term volatility in markets
- ✗ Additional administrative complexity and costs
- ✗ Disincentive for stakeholders to negotiate higher contribution rates
- ✗ Overly restricted ability to enhance accrued benefits
- ✗ On-going windfall payments to terminating participants

From our perspective, our Plan has been managed and governed well over the years, never promising unsupportable levels of benefits and never exposing members to unreasonable levels of risk. The Plan has assisted thousands of Saskatchewan workers in saving for retirement in an efficient manner. In this context, the proposed regime falls short in many aspects and only really benefits our beneficiaries in the event of another market crash somewhere down the road.

We thank you for this opportunity to share our views.

Sincerely,

Board of Trustees

July 19, 2016

PRIVATE & CONFIDENTIAL

Ms. Leah Fichter
Director
Pensions Division
Financial and Consumer Affairs Authority of Saskatchewan
Suite 601, 1919 Saskatchewan Drive
Regina, SK S4P 3V7

RE: INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 870 PENSION PLAN (PLAN) REGISTRATION NO. 0989061

Dear Leah:

On behalf of the board of trustees (Trustees) of the above Plan, please find attached the Trustees' response to the Consultation Paper on the Proposed Funding Regime for Negotiated Cost Pension Plans.

Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Troy Milnthorp, FSA, FCIA
Partner
(306) 934-8698

cc: R. Williams, International Union of Operating Engineers Local 870

Aon Hewitt
Canada Building | 105 – 21 Street East | 8th Floor | Saskatoon, Saskatchewan S7K 0B3
Telephone: 306-934-8680 | Fax: 306-244-7597 | aon.com

APPENDIX A

PROPOSED REGIME FOR NEGOTIATED COST PENSION PLANS (NCPP)

Part 9: Consultation Questions

Response Provided by: Board of Trustees for the International Union of Operating Engineers, Local 870 Pension Plan, July 31, 2016

For each question, please explain your response and provide a detailed explanation supporting your response.

In addition to the following questions, please respond to this general question:

1. *With respect to each Part, are there any additional concerns or considerations that you wish to identify.*

All of the views of the Trustees have been expressed in the following statements.

Part 1: Introduction & Background

2. *Do you agree with the principles?*

Pension Sustainability: The Trustees believe that all defined benefit pension plans (whether they be private sector, public sector, jointly trusteed or negotiated cost pension plans) should be managed on a sustainable basis over the long term.

Benefit security: The Trustees believe this should be part of the management of all pension plans. It is understood that negotiated cost pension plans do at times need to have the ability to reduce past and future service benefits. As such, while benefit security may not be guaranteed, the Trustees still believe that benefit security should form an important role in the management of those pension plans.

Equity and Transparency: Equity between generations of plan members can be a challenging item to manage. It requires a careful balance between the need to keep a plan fully funded in the shorter term and the longer term goal to have plan members and employers pay their fair share of the cost of benefits being earned. Having said that, equity is a reasonable long term goal to have in any pension plan.

Regarding transparency, the Trustees would agree that plan participants should be provided sufficient information to understand their plan.

Flexibility: Plan decision makers should be able to make decisions that are appropriate given the individual characteristics and needs of each pension plan. The Trustees would hope that this is a fundamental principle in any regulations that are put in place for any pension plan registered in Saskatchewan.

Part 2: Funding

3. *Do you agree with the proposed funding requirements, including the method of calculating the PfAD?*

- The Trustees have interpreted the proposed funding regime is as follows. All comments are made in relation to this interpretation:

    1. A single PfAD is determined for each plan based on the plan's asset mix and a benchmark discount rate.
    2. A NCPP is allowed to hold a zero PfAD in the balance sheet.
    3. The amount of PfAd that is to be held in the funding contributions must be at least equal to the calculated PfAD.
    4. When the plan has a PfAD in the funding contributions that is at least equal to the calculated PfAD then the given contributions to the plan are adequate to fund the benefits and no changes are needed.
    5. When the plan has a PfAD in the funding contributions that is less than the calculated PfAD then either higher contributions must be negotiated or benefits (past and/or future) must be reduced to the extent that the actual PfAD (after any such changes) is at least equal to the calculated PfAD.
    6. When the plan has a PfAD in the balance sheet that is greater than the calculated PfAD then benefit improvements will be allowed.

- The Trustees do not view any kind of PfAD as an actuarial liability of the plan. The actuarial liabilities are only in respect of benefits that are expected to be paid from the plan. Any PfAD is an additional amount that is build up from excess funding contributions or from positive plan experience. The purpose of holding a PfAD is for circumstances where plan experience is less favorable than expected and the PfAD can be used to stabilize funding contributions or provide benefit security.

    The Trustees do agree with the following statement made in the consultation paper *"The PfAD will act as a buffer that would increase or decrease based on plan experience and/or contributions."*. This aligns very well with how the Trustees view a PfAD.

- In the proposed funding regime, the PfAD that is intended for the current service cost (CSC) appears to be equal to the PfAD that is intended for the balance sheet. The Trustees view this as being too restrictive. The Trustees may make the decision to hold a margin in the balance sheet that is different from the margin that is held in the funding contributions. This is done in order to provide both benefit security as well as contribution stability. The Trustees believe that it would be preferable to have the ability to set separate PfAD's for the contributions and the balance sheet.

- We would agree that the plan's asset mix should be considered when setting a PfAD. The table in section 2.4 provides a reasonable assessment of a PfAD for various asset mixes. One item that may be missing is a way to determine the amount of PfAD that is associated with various alternative asset classes available to pension plans such as real estate, mortgages, infrastructure, hedge funds, etc.

- The Trustees have prepared the following five scenarios with various combinations of funding contributions and balance sheet situations. Of course, there are multiple scenarios that could be illustrated, but the Trustees believe that these five scenarios highlight the different circumstances that a plan could encounter. Under each scenario, we have provided what we believe would be the required actions and the impact of those actions as a result of applying the proposed funding regime. In all of the scenarios, it is assumed that the plan in question has a minimum PfAD of 15%, as a result of applying the asset mix and benchmark discount rate formulas in the proposed funding regime.

<table>
<tr><th colspan="4">Scenario 1 – Meeting PfAD Requirements</th></tr>
<tr><th colspan="2">Contributions</th><th colspan="2">Balance Sheet</th></tr>
<tr><td>Best Estimate Current Service Cost</td><td>100</td><td>Assets</td><td>1,150</td></tr>
<tr><td>Contributions</td><td>115</td><td>Best Estimate Liabilities</td><td>1,000</td></tr>
<tr><td>Actual PfAD</td><td>15%</td><td>Actual PfAD</td><td>15%</td></tr>
<tr><td>Minimum PfAD</td><td>15%</td><td>Minimum PfAD</td><td>15%</td></tr>
<tr><td>Action:</td><td>No changes needed</td><td>Action:</td><td>No changes needed</td></tr>
<tr><td>Commentary</td><td colspan="3">In this scenario, the plan has PfAD in the balance sheet and the funding contributions that are equal to the minimum PfAD of 15%. As such no changes are needed to the plan.

Action: status quo until the next valuation.
Result: no apparent conflicts.</td></tr>
</table>

<table>
<tr><th colspan="4">Scenario 2 – Surplus in Excess of PfAD</th></tr>
<tr><th colspan="2">Contributions</th><th colspan="2">Balance Sheet</th></tr>
<tr><td>Best Estimate Current Service Cost</td><td>100</td><td>Assets</td><td>1,300</td></tr>
<tr><td>Contributions</td><td>120</td><td>Best Estimate Liabilities</td><td>1,000</td></tr>
<tr><td>Actual PfAD</td><td>20%</td><td>Actual PfAD</td><td>30%</td></tr>
<tr><td>Minimum PfAD</td><td>15%</td><td>Minimum PfAD</td><td>15%</td></tr>
<tr><td>Action:</td><td>No change needed: can consider increasing future service benefits</td><td>Action:</td><td>No change needed: can consider increasing past service benefits</td></tr>
<tr><td>Commentary</td><td colspan="3">In this scenario, the PfAD in the funding contributions and the balance sheet is larger than the minimum PfAD.

Actions: the sponsor could consider making no changes to the plan or the sponsor could consider increasing past and/or future service benefits.

Result: no apparent conflicts.</td></tr>
</table>

Scenario 3 – Not Meeting PfAD Requirements			
Contributions		**Balance Sheet**	
Best Estimate Current Service Cost	100	**Assets**	1,100
Contributions	110	**Best Estimate Liabilities**	1,000
Actual PfAD	10%	**Actual PfAD**	10%
Minimum PfAD	15%	**Minimum PfAD**	15%
Action:	Increase contributions or reduce future service benefits	**Action:**	No changes needed
Commentary	In this scenario, the PfAD in the funding contributions and balance sheet are below the minimum PfAD requirement. Action: the sponsor would need to either reduce future service benefits or have higher contributions negotiated in order to support the minimum PfAD requirements. Result: no apparent conflicts.		

Scenario 4 – Going Concern Unfunded Liability			
Contributions		**Balance Sheet**	
Best Estimate Current Service Cost	100	**Assets**	900
Contributions	120	**Best Estimate Liabilities**	1,000
Actual PfAD	20%	**Actual PfAD**	None: Deficit
Minimum PfAD	15%	**Minimum PfAD**	15%
Action:	Use the 5% excess in the contributions to amortize (all or part of) the balance sheet deficit	**Action:**	Past and/or future service benefits may need to be reduced if the 5% excess in the funding contributions is not sufficient to amortize the balance sheet deficit
Commentary	In this scenario, the PfAD in the funding contributions is greater than the minimum, whereas the balance sheet is in a deficit position. Action: the plan would need to evaluate the 5% excess margin in the funding contributions to see if it is sufficient to amortize the balance sheet deficit. If it is not sufficient then one of the following must happen: • Higher contributions are negotiated and/or • Future service benefits are reduced and/or • Past service benefits are reduced Result: no apparent conflicts.		

<table>
<tr><th colspan="4">Scenario 5 – PfAD Requirement not met in Contributions with Balance Sheet Surplus</th></tr>
<tr><th colspan="2">Contributions</th><th colspan="2">Balance Sheet</th></tr>
<tr><td>Best Estimate Current Service Cost</td><td>100</td><td>Assets</td><td>1,200</td></tr>
<tr><td>Contributions</td><td>110</td><td>Best Estimate Liabilities</td><td>1,000</td></tr>
<tr><td>Actual PfAD</td><td>10%</td><td>Actual PfAD</td><td>20%</td></tr>
<tr><td>Minimum PfAD</td><td>15%</td><td>Minimum PfAD</td><td>15%</td></tr>
<tr><td>Action:</td><td>Increase contributions or reduce future service benefits</td><td>Action:</td><td>Past service benefit improvements are allowed</td></tr>
<tr><td>Commentary</td><td colspan="3">In this scenario, the PfAD in the funding contributions is below the minimum PfAD requirement, whereas the PfAD in the balance sheet is larger than the minimum PfAD requirement.

Action: the sponsor would need to consider one or both of the following:
reduce future service benefits – which would reduce the current service cost of the plan and restoring the actual PfAD to the minimum PfAD requirement and/or
have higher contributions negotiated in order to restore the minimum PfAD in the funding contributions
At the same time the sponsor would be allowed to consider increasing past service benefits due to the surplus in the balance sheet.

Result: this scenario produces a conflict where the security of future service benefits are put in jeopardy while the plan has the ability to increase past service benefits. Hence the proposed funding regime has the potential to produce a conflict. It is the Trustee’s view that this conflict can be avoided by incorporating a range for the allowable PfAD in the funding regime – see additional comments below.</td></tr>
</table>

- There is the potential that any particular plan may be faced with a conflict between the security of future service benefits and the ability to increase past service benefits (highlighted in Scenario 5 above). It is the Trustee’s view that this conflict can be avoided by:
    1. Incorporating a range for the allowable PfAD in the funding regime;
    2. Allowing the PfAD in the balance sheet to be different from the PfAD in the funding contributions, depending on the particular circumstances of each plan at each actuarial valuation; and
    3. Allowing the PfAD in the balance sheet that is in excess of the minimum PfAD be first applied to making good on any shortfall in the funding contribution PfAD.

- In order to provide flexibility in the funding regime for various circumstances that plans may face (and to avoid any conflicts such as pointed out in Scenario 5 above), the Trustees propose the following alternative way to determine PfAD’s for each plan:

    1. Establish a calculated “Base PfAD” for each pension plan. The current proposal to calculate the Base PfAD based on the plan’s asset mix would be a reasonable approach (and, removing the Benchmark Discount Rate adjustment – see comments below).

2. Determine a reasonable range around the Base PfAD, thereby determining a Minimum PfAD, a Base PfAD, and a Target PfAD for each plan. The table of PfAD's based on asset mix shown in the consultation paper could be used to determine the "Base PfAD" and the table could then be expanded to include a Minimum and a Target PfAD. The following is an example that could be considered:

Equity Allocation (%)	Minimum Balance Sheet PfAD	Minimum CSC PfAD	Base PfAD (CSC and BS)	Target PfAD (CSC and BS)
0	0	0	5	10
10	0	5	7.5	10
20	0	5	10	15
30	0	5	11.5	17
40	0	7.5	13	20
50	0	7.5	15	22.5
60	0	7.5	17	25
70	0	10	18.5	27
80	0	10	20	30

It is noted that the labels "Minimum", "Base" and "Target" and the specific values in the table above are for illustrative purposes and would be open for comment and discussion.

3. At the time of any actuarial valuation, it would be acceptable to have different PfADs in the funding contributions and the balance sheet.

4. At any valuation date: if the PfAD in the funding contributions is less than the Minimum CSC PfAD shown above (for the asset mix of the plan in question) then either higher funding contributions would need to be negotiated and/or some form of benefit reduction (past and/or future) would need to be considered.

5. At any valuation date: benefits are not allowed to be increased until the actual PfAD (contributions and/or balance sheet) exceeds the Target PfAD in the table. In particular, once the PfAD in the funding contributions exceeds the Target PfAD, then consideration could be given to increasing future service benefits. Similarly, once the PfAD in the balance sheet exceeds the Target PfAD, then consideration could be given to increasing past service benefits.

- The Trustees believe that the formula being proposed to determine the "Benchmark Discount Rate" and the resulting adjustment to the PfAD is best removed from the funding regime. There are two main reasons for this suggestion:

1. The input items to the formula to determine the Benchmark Discount Rate may be quite volatile in times of economic uncertainty. As such, the formula may produce Benchmark Discount Rates that are quite high or quite low at times and could be unpredictable. Similar to the prescribed discount rates required for solvency funding, we believe that this will potentially add (possibly significant) volatility to the funding regime. This could also require significant benefit reductions or allow for significant benefit improvements during periods of economic uncertainty. This would appear to go against the basic principles of sustainability, benefit security and flexibility.

2. The proposed PfAD, based on the asset mix, is a reasonable way to assess the investment risk in a plan's asset mix. We see the use of the "Benchmark Discount Rate" formula as really being an alternative way to assess that same risk, albeit with much greater potential for volatility. If both methods are used, it is our view that there will be significant "double counting" of the PfAD.

4. Should the rules be more prescriptive regarding the funding policy for an NCPP (e.g. require that such plans have a funding policy; set-out the minimum contents of a funding policy)?

Yes, the Trustees believe that the best practice is to have a funding policy for each plan. That funding policy should have minimum requirements as specified by the FCAA (not unlike an investment policy or the plan text of each plan). The funding policy should also be filed with the FCAA at least at the point that each actuarial valuation is filed with the FCAA.

5. Is stress testing an appropriate way to understand the risks of an NCPP?

Yes, the Trustees believe that stress testing provides additional information for plan sponsors and fiduciaries to understand the risks inherent in any particular pension plan.

Part 3: Benefit Improvements & Benefit Reductions

6. Do you agree that an NCPP should have AGCE in order to improve benefits?

The Trustees agree that a reasonable PfAD should be held in the balance sheet and/or the funding contributions before any significant benefit improvements are put in place. However, the amount of PfAD that should be held by each plan before benefit improvements are allowed will differ depending on the particular characteristics and circumstances of each plan.

7. Do you feel that there should be rules in the Regulations regarding the order of benefits to be reduced to meet the solvency tests?

No, the order of benefit reductions is a complex process that will depend on each plan's individual circumstances and history. Having regard to any applicable fiduciary duties, the plan sponsor(s) should determine the precise reductions, which must then be approved by the FCAA under s. 40(6) of the PBA.

Part 4: Benefit Types

8. Would the NCPPs that you are involved with be interested in GC CVs?

Yes, the Trustees believe that the GC CV basis would be appropriate for our NCPP, with a strong recommendation that it be applied on a retrospective basis. Such a basis is consistent with the elimination of NCPP solvency funding requirements and the ability of NCPPs to reduce past service benefits. This will enable plans to pay only the funded portion of the benefit, with no additional payments to be made after five years, which is based on and consistent with the current valuation's funded position.

9. *Are there any significant issues respecting preparation of an AVR, member communications, or inequity where an NCPP provides for both methodologies of calculating commuted values (i.e. CIA CV and GC CV)?*

If it is not allowable to apply the going concern commuted value on a retrospective basis, this will create significant additional administrative and communication burden on the pension plans affected. This may severely restrict the ability to actually incorporate the going concern commuted value into an existing pension plan. In addition, using two different commutation methodologies (CIA CV for pre-transition service and GC CV for post-transition service) seems to be based on the idea that there is some sort of "vested right" to a commutation methodology, whereas the only vested rights that are recognized in law are to the promised defined benefits. These are "pension plans", not "lump sum plans". How the defined benefits payable from a pension plan are converted into lump sum equivalents has and can change without interfering with the true vested rights. The Board therefore believes it is wrong in law and in principle to use more than one commutation methodology to convert defined benefits into lump sums.

10. *What are your views on the proposed methodology used to calculate the GC CV?*

- The basic benefit of any defined benefit pension plan is a monthly lifetime pension paid to plan members upon retirement not a lump sum savings program that provides lump sum payouts.
- If the going concern actuarial basis is used to determine commuted values, the amounts paid from the plan will not be inflated due to low interest rate environments.
- Using the Going Concern Commuted Value basis (including applying the plan's funded ratio on a going concern basis) will correct any inequities between members who remain in the plan and receive a monthly pension as compared to those members who elect a commuted value. In addition, the provision of a going concern commuted value will not provide additional incentive for plan members to take the lump sum commuted value as compared to receiving an immediate or deferred pension from the plan.

11. *Given that members could be entitled to a GC CV (a CV that reflects the funded status), should plans that provide use the GC CV methodology be required to file periodic updates on their funded position to ensure that commuted value more accurately reflects the funded position of the plan at the time of transfer?*

No, the funded status at the most recent valuation is reflected in any contributions that are earmarked for deficit recovery. Since those contributions only change when a valuation is filed with the FCAA and since applying the plan's funded ratio to the commuted value is a mechanism to recover a terminating member's portion of the deficit, the funded ratio should only be updated when a valuation is filed with the FCAA.

12. *Should the ability to convert past benefits to benefits calculated using the GC CV methodologies be provided at this time to NCPPs?*

Yes, if it is not allowable to apply the going concern commuted value on a retrospective basis, this will create significant additional administrative and communication burden on the NCPPs. This may severely restrict the ability to actually incorporate the going concern commuted value into an existing pension plan.

Part 5: Communications

13. *Is the communications framework appropriate for NCPPs?*

Yes, the communication under the proposed regime is appropriate. The Trustees believe that best practice would be to reflect the proposed disclosure and additional member communications.

Part 6: Administration & Governance

14. *Should there be more or less rules regarding NCPP governing bodies (Administrator and/or sponsor)? For example, should the regulations prescribe the proportion of plan members and retirees, presence of independent trustees, required knowledge and skills, etc.?*

The Trustees consider that the current rules regarding the NCPP governing bodies are acceptable and that they provide enough regulation to ensure that all parties are represented.

15. *Should the legislation or regulations be more prescriptive regarding the governance policy for NCPPs (e.g. require that such plans have a governance policy; set-out the minimum contents of a governance policy)?*

No, it is the plan's best practice to be administered in accordance with the Act and Regulations. Having a governance policy should be recommended but not required.

Part 7: Transition Rules

16. *Is the transition framework appropriate? Have all issues been addressed?*

We agree that a transition period is required.

Consideration should be given to allowing a plan to adopt the Going Concern Commuted Value basis on a retrospective basis as well.

The requirement to implement the restriction on benefit improvements immediately upon adoption of the new funding regime is a reasonable trade off to allowing a transition period in order to implement a minimum PfAD in the plan's funding contributions.

17. *Do you agree with transitioning the PfAD on the CSC over a 3 year period?*

Consideration could be given to providing a longer time period over which to implement any additional funding deficit (difference between funding contributions and the Best Estimate current service cost plus the minimum PfAD that is required) which is revealed at the valuation date following the transition report. For example, a three valuation cycle could be considered: at the first valuation following the transition valuation 1/3 of the required PfAD is required, at the second valuation 2/3 is required and the full PfAD would be required as of the third valuation. This would effectively give as much as 12 years (similar in length to balance sheet deficit amortization periods) over which to implement the full PfAD requirement.

Part 8: Additional Considerations - Section 8.1: Alternative –"Enhanced Going Concern"

18. *Do you feel the "Enhanced Going Concern" option would be an acceptable regime as opposed to the Proposed Regime?*

See comments under Question 19.

Part 8: Additional Considerations - Section 8.2: Expand the Proposed Regime to Other Pension Plans

19. *Should a framework similar to the Proposed Regime be an option available to other types of pension plans registered under the Act?*

We believe that the "Enhanced Going Concern" funding basis that was put in place for Specified Plans was a reasonable first step in establishing the ultimate funding requirements for Specified Plans. At this point it is the view of the Trustees that certain modifications to the Enhanced Going Concern basis should be considered. It is the view of the Trustees that a single funding basis can be put in place for the Specified Plans and the NCPPs registered in Saskatchewan. This single funding basis would be structured as highlighted in this response.

Part 8: Additional Considerations - Section 8.3: Multi-Jurisdictional Pension Plans

20. *What issues do you foresee will need to be addressed with respect to GC CVs and multi-jurisdictional plans?*

The issues that need to be addressed with respect to the GC CV are whether it can be reflected on a retrospective basis, the costs associated with this new regime and the volatility in the funded position of the plan. This topic becomes increasingly more complicated for multi-jurisdictional plans with members in Saskatchewan.

Part 9: Closing Comments & Contact Information

21. *Please provide any additional comments or information related to this paper.*

The following is the Trustee's view on the most important principles to be used for the funding of NCPPs:

- The Trustees hold the view that operating NCPPs within a full going-concern environment (without solvency funding) is the most appropriate funding regime.
- Requiring a fixed minimum PfAD will not only reduce needed flexibility in the funding of these plans, but could also jeopardize benefit security in certain circumstances (contrary to the purpose of establishing a PfAD). As such there needs to be provision to allow PfADs (margins) to fluctuate within acceptable ranges around a reasonable base margin. This will allow for the build-up of margins when plan experience is better than expected and the release of margins when plan experience is worse than expected. This will also address the various individual characteristics (plan maturity, benefit provisions, investment policies, etc.) of each pension plan.
- NCPPs should be required to have a working Funding Policy that meets certain minimum standards as specified by the FCAA (for example standards set out by the FCAA as well as other bodies such as CAPSA). Each funding policy should be filed with the FCAA. On an ongoing basis, if any plan wants to modify their funding policy, the FCAA would have to be notified.

- The Trustees support the positon that benefit improvements are only allowed when there is a sufficient margin built up in the going-concern balance sheet and/or the funding contributions. This is a far superior method to determine the adequacy of funding to support benefit improvements when compared to the current test that the plan's solvency ratio must be in excess of 90% after any benefit improvements are made.
- For equity reasons, the Trustees support:
  - the going-concern commuted value calculation method in determining benefits to be provided on portability;
  - applying the going concern funded ratio to the calculation of commuted values paid on portability;
  - allowing the going concern commuted value to be applied on a retrospective basis when first implemented (i.e. for all past and future service); and
  - removing the requirement for transfer deficiency holdbacks to be paid after a 5 year period.

Note that it is our understanding that MEBCO has provided a response to the Consultation Paper under separate cover. The Trustees have reviewed MEBCO's response and are in agreement with MEBCO's position and their response.

July 13, 2016

Tami Dove
Senior Policy Analyst
Pensions Division
Financial and Consumer Affairs Authority
Suite 601, 1919 Saskatchewan Drive
Regina, SK S4P 4H2

Email: tami.dove@gov.sk.ca

Dear Ms. Dove:

I am writing to you as Chairman of the Board of Trustees for the Laborers' Pension Fund of Western Canada.

About our Fund

The Laborers' Pension Fund of Western Canada ("Fund'") is a multi-jurisdictional Collectively Bargained Multi-Employer Pension Plan ("CBMEP") registered in Alberta with members from Local Unions in British Columbia, Alberta and Saskatchewan. Its genesis was the creation of the Saskatoon Laborers' Pension Plan in 1968 – one of the first multi-employer pension plans for construction workers in Canada– which subsequently merged with other plans in Saskatchewan and Alberta in 1972 to form the Fund. It is administered by a joint and equal Labour/Management Board of Trustees consisting of 10 individuals. The Fund has approximately 22,000 beneficiaries with over $800 million in assets.

Response to the NCPP Consultation Paper

We commend Saskatchewan for recognizing the need to consider legislative changes to reflect the specific nature of CBMEPs and thank you for the opportunity to respond to the NCPP Consultation Paper.

As our response to the Consultation Paper would be identical to that of the Multi-Employer Benefit Council of Canada's (MEBCO) submission dated June 14, 2016, we do not find any value in expressing the same views and comments differently. We have attached a copy of the MEBCO submission to this letter as part of our response for convenience. However, we do take the opportunity to emphasize our high priority for the following provisions from the perspective of a multi-jurisdictional fund.

LABORERS' PENSION FUND
OF WESTERN CANADA

Q2-3 – Solvency funding - the elimination of solvency funding for MEPPs

Q2-8 – Calculating the Commuted Value - Commuted Value Transfers, if permitted, should be calculated up to 100% of the Going Concern valuation. Members leaving the Fund will then no longer get a windfall, as they have to date, at the expense of those members staying in the Fund.

Q4-12 - Accrued benefits - Provision for Target Benefit Plans to retroactively convert previously accrued defined benefits to target benefits

We note that British Columbia incorporated these provisions in the Pension Benefits Standards Act 2012 and Alberta will be introducing an amendment to their Employment Pension Plans Act 2014 this fall for proclamation early spring 2017 specifically to include these provisions. In the absence of retroactivity for all Saskatchewan commuted value calculations, it will not be possible to treat all members equitably, which may possibly require the Board to reduce the accruals for Saskatchewan members to achieve equity. This would be our solution of last resort, but may become necessary unless retroactivity is provided. The lack of retroactivity will also continue to adversely affect the interests of our pensioners, our most vulnerable group. We urge the government to consider the best interests of all plan beneficiaries in formulating the new pension framework for NCPPs in Saskatchewan.

Yours truly
Laborers' Pension Fund of Western Canada

S.D. (Sid) Matthews
Chairman
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MULTI-EMPLOYER BENEFIT PLAN COUNCIL OF CANADA

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MEBCO RESPONSE TO SASKATCHEWAN FINANCE AND CONSUMER AFFAIRS AUTHORITY CONSULTATION PAPER: "PROPOSED REGIME FOR NEGOTIATED COST PENSION PLANS"

June 14, 2016

Tami Dove
Senior Policy Analyst, Pensions Division
Financial and Consumer Affairs Authority
Suite 601, 1919 Saskatchewan Drive
Regina SK S4P 4H2

Via email: tami.dove@gov.sk.ca

Dear Ms. Dove:

MEBCO was established in 1992 to represent the interests of Canadian multi-employer pension and benefit plans (MEPs). We consult with provincial and federal governments regarding proposed or existing legislation and policies affecting these plans.

MEBCO is a federal no-share capital corporation, operating on a not-for-profit basis.

MEBCO is representative of all persons and disciplines involved in MEPs, including trustees (union, independent, professional and employer), professional third party administrators, non profit or "in-house" plan administrators, professionals including actuaries, benefit consultants, lawyers, investment managers, investment counsel and chartered public accountants. MEBCO is administered by a Board of Directors consisting of representatives from each of the above groups. The Board of Directors serve MEBCO on a volunteer basis, and are responsible for identifying issues that impact MEPs, developing a strategy to address those issues, and then carrying out the strategy. MEBCO's member-plans provide comprehensive health coverage to over 1,000,000 Canadians.

MEBCO represents all stakeholders in negotiated cost target benefit multi-employer pension plans ("MEPPs") – employers, unions, and professionals. We agree that MEPPs do not fit well into the traditional single employer regulatory model, and support the creation of a MEPP-specific regulatory framework. Creating such a framework requires the intimate knowledge of such plans, and specifically the differences between plans, that can only come from years of hands-on experience. We therefore strongly recommend that a small group from MEBCO meet with Financial and Consumer Affairs Authority ("FCAA") staff early on for an educational session, so that the FCAA staff members involved in this project have a better appreciation of the challenges facing such plans and the similarities and differences among plans that should influence the regulatory framework that is being considered.

MEBCO is pleased to offer its submission on this core topic for our constituents. While we will address the specific questions in the Consultation Paper ("CP"), we believe it will be helpful if we start with a summary MEBCO's guiding principles with respect to target benefit MEPPs.

1. The primary objective of a target benefit MEPP should be to provide an adequate lifetime income to those with a history of attachment to the industry.
2. Target benefit MEPPs should not be subject to solvency funding.
3. Target benefit MEPPs must have the flexibility to balance benefit adequacy against benefit security.
4. The obligation to manage any intergenerational equity issues must rest with a target benefit MEPP's board of trustees.
5. The primary financial measure for a target benefit MEPP is the relationship between contribution income and actuarially calculated cost.
6. Target benefit MEPPs should not be obligated to offer transfer values. If mandated by legislation, transfer values should (1) reflect the funding level of the plan; (2) reflect that the recipient is no longer subject to the risk of benefit reductions; and (3) be computed identically in all jurisdictions (or at least be computed identically for all participants in a single plan).
7. Target benefit MEPP boards of trustees must retain the responsibility for establishing the treatment of affected benefits when an employer terminates or reduces its participation.
8. Margins should be required only for purposes of determining any potential benefit changes.
9. Target benefit MEPPs should be able to suspend monthly pension payments if the member works in the same trade or craft, industry and geographic location as is covered by the MEPP, whether or not such work requires contributions to the MEPP.
10. Target benefit MEPP benefit volatility should be considered in the context of marital breakdown situations.

We make the following comments on the Consultation Paper in the context of MEBCO's guiding principles.

a) The CP reflects the government's view of favouring benefit security over benefit adequacy. With a fixed negotiated contribution, that inevitably means lower benefits for current retirees than a MEPP can reasonably afford to provide.

b) Some of the proposals in the CP create a regulatory framework that potentially compels intergenerational inequity, which is undesirable.

c) The CP focuses primarily on funded levels. For an ongoing MEPP, that is an inadequate measure of plan health. A fully funded plan with contributions less than the normal cost is a plan in financial trouble. A plan that has an unfunded actuarial liability with contributions adequate to pay the normal cost, reasonable amortization of the unfunded actuarial liability, and plan expenses is a healthy plan. MEBCO suggests that any measures of plan health, of the need to reduce benefits, of the opportunity to increase benefits, etc., be based on the relationship between contribution income and actuarially calculated cost, not based on funded ratios.

d) Part of the CP relates to the proper measure of transfer values. Those concerns all disappear if the requirement to pay transfer values is eliminated altogether for MEPPs – a change that MEBCO supports. A worker's union has negotiated a defined benefit type pension for its members. There is no obvious reason why a terminating employee should have the option to convert that negotiated benefit into a defined contribution balance. This is particularly true for broad-based MEPPs, where portability is automatic among all participating employers. With respect to Section 4.4 of the CP, MEBCO opposes the grandfathering of the CIA CV methodology with respect to conversion date accrued benefits, because of the added administrative costs, the absence of solvency funding for those accruals, and the inconsistency with other jurisdictions.

Our comments on the specifics of the CP follow. Overall, we are concerned that the CP is proposing simple rules that can be applied mathematically to all MEPPs. However, the reality is that MEPPs vary substantially from each other in important ways. What is reasonable for a large national industrial plan may make no sense for a local construction plan. To the extent that the FCAA is looking for backing for simplistic mathematical rules, we cannot be supportive. Thus, we are more inclined to favour giving regulatory discretion and review powers for principles-based regulations than to establish bright lines that apply identically to all MEPPs under all circumstances. We recognize that this is more of a regulatory challenge, but the trustees, with the assistance of their advisors, have the knowledge to reflect differing circumstances differently. The government often passes laws that prohibit treating similar circumstances differently; it should not require treating different circumstances the same.

Part 1: Introduction & Background

Q 1 With respect to each Part, are there any additional concerns or considerations that you wish to identify?

Q 2 Do you agree with the principles?

A 1/2 As is clear from our introduction above and our responses to the specific questions below, MEBCO has significant concerns with some aspects of the CP.

Part 2: Funding

Q 3 Do you agree with the proposed funding requirements, including the method of calculating the PfAD?

A 3 MEBCO supports the elimination of solvency funding requirements, but sees no value in calculating what the required solvency funding requirement (with five-year amortization) would be if solvency funding did apply.

As indicated above, a PfAD is only relevant at the time when benefit changes are being considered. At that time, plan maturity, demographics, employer diversity, presence or absence of a dominant employer, investment policy, risk of future decline in covered employment, risk of disruption to employers, benefit adequacy, and even the actuarial cost method and assumptions are all potentially important factors. MEBCO could support requiring that the Pension Division be given a "benefit change report" that outlines the analysis and reasoning that went into a proposed change, along with a 60-day period during which the Pension Division could either approve the change, deny approval, or request further information. MEBCO does not support a one-size-fits-all mathematical test.

Note that a PfAD is likely to compel intergenerational inequity. It forces lower benefit levels than a plan can reasonably afford while the PfAD is being funded. Once the PfAD is funded, future plan members reap the benefit, which was funded by prior generations of members. Further, it is reasonably likely that the PfAD will prove unnecessary, thus enabling benefit improvements for a later generation that were paid for by an earlier generation.

Q 4 Should the rules be more prescriptive regarding the funding policy for an NCPP (e.g., require that such plans have a funding policy; set out the minimum contents of a funding policy)?

A 4 First, the term "funding policy" is a misnomer. Funding is determined by the bargaining parties, not the trustees. Better terminology would be "benefit policy," since that is what the trustees control. As with other elements of the CP, bright line rules are, in MEBCO's view, counterproductive. The concept that there is a benefit policy with a specific advance set of priorities for benefit changes sounds attractive. However, the need to reduce benefits can come about as the result of a variety of different circumstances, and having a simple solution for a complex problem will inevitably lead to sub-optimum decisions. A benefit policy could reasonably outline the process that the trustees will use when benefit changes are being considered, but a policy constraining the actual decisions, or giving participants advance notice with respect to unknowable future changes, is counter-productive and likely to lead to bad decisions and/or litigation.

Q 5 Is stress testing an appropriate way to understand the risks of an NCPP?

A 5 MEBCO reminds the FCAA that, for a target benefit MEPP, any mandated governance costs come out of resources that would otherwise be used for benefits. Stress testing is unquestionably desirable for most MEPPs. However, what testing is useful and justifiable by a cost-benefit analysis will vary widely. MEBCO therefore suggests that stress testing be encouraged as part of good governance, but not mandated.

<u>Part 3: Benefit Improvements & Benefit Reductions</u>

Q 6 Do you agree that an NCPP should have AGCE in order to improve benefits?

A 6 MEBCO's view is that, at the time benefit improvements (or reductions) are being considered, Trustees should be sure that any such changes leave the MEPP with a prudent margin of projected contributions compared to projected actuarial costs on a collective basis (i.e., with respect to the benefits and contributions for the entire plan, not just for the change being considered). MEBCO does not support a test that looks only at actuarial liabilities without considering the totality of costs and contributions. MEBCO does not support a formulaic "one size fits all" rule that substitutes a universal formula for a plan-specific consideration of the risks and benefits.

Q 7 Do you feel that there should be rules in the Regulations regarding the order of benefits to be reduced to meet the solvency tests?

A 7 The more that trustees' hands are tied, the more likely it is that they will be forced to take actions that may make little or no sense under the circumstances at the time. Therefore, MEBCO opposes mandatory priorities for benefit reductions. For example, reductions may be needed due to declining employment, changes in mortality, changes in retirement patterns, investment losses, etc. Some of these causes are solely related to active employees, others are not. Reductions to pensions in pay status may be more tolerable for those with higher benefit amounts than to those with more marginal income. Plan maturity may impact how effective different reductions will be, and what magnitude of margin is acceptable. Reversing recent improvements may or may not be acceptable. Most important, the need for reductions is rarely due to a single cause, so judgment is required to achieve a fair balance.

Part 4: Benefit Types

As mentioned earlier, MEBCO prefers to have transfer values eliminated altogether. Further, MEBCO strongly opposes the bifurcated methodology of subsection 4.4, and would like there to be a uniform national methodology for determining transfer values for MEPPs (or at least a single rule with respect to participants in a particular plan). For example, MEBCO notes that the new Québec regime for MEPPs computes funded transfer values on a solvency basis, whereas other jurisdictions, including Saskatchewan, are considering a going concern model.

In the absence of uniformity of transfer values by jurisdiction for a multi-jurisdictional MEPP, the Trustees may well choose to provide lower retirement and disability pension benefits to members in jurisdictions that mandate higher transfer values, which would be confusing and hard for participants to accept.

Q 8 Would the NCPPs that you are involved with be interested in GC CVs?

A 8 Subject to the comments above, MEBCO believes that most trustees would welcome the GC CV model. It encourages leaving one's pension entitlement as a deferred defined benefit annuity, which is what was bargained for in the first place, and it avoids treating terminated employees more favourably than continuing employees if a benefit reduction is required. In addition, GC CVs facilitate more equitable and appropriate outcomes for career employees. Further, this approach is consistent with the manner in which the pension benefits are funded.

Q 9 Are there any significant issues respecting preparation of an AVR, member communications, or inequity where an NCPP provides for both methodologies of calculating commuted values (i.e., CIA CV and GC CV)

A 9 As indicated above and in A 12, MEBCO feels strongly that no plan should be required to compute transfer values on a bifurcated basis. An AVR is more complex and expensive to produce with multiple transfer value rules. Workers who imagine that they should have similar transfer values may well be confused when this turns out not to be the case. And there will be a clear inequity if benefits need to be reduced and a terminated former member who has received a full CIA CV is protected from the impact.

Q 10 What are your views on the proposed methodology used to calculate the GC CV?

A 10 MEBCO is supportive of the proposed GC CV methodology.

Q 11 Given that members could be entitled to a GC CV (a CV that reflects the funded status), should plans that use the GC CV methodology be required to file periodic updates on their funded position to ensure that commuted value more accurately reflects the funded position of the plan at the time of transfer?

A 11 MEBCO agrees that the volatility of investment markets and employment means that there needs to be some adjustment process between AVR filings (which themselves are not due until nine months after the valuation date). Therefore, MEBCO supports a uniform, simplified updating process, no more frequently than quarterly, that is primarily or exclusively driven by asset changes and that does not require updated actuarial liability calculations.

Q 12 Should the ability to convert past benefits calculated using the GC CV methodologies be provided at this time to NCPPs?

A 12 MEBCO strongly supports having post-conversion transfer values computed solely on GC CVs. The CIA CV regime assumes solvency funding is continuing, so that within five years today's solvency liability will be fully funded. That will not be happening under the proposed regime. In addition, it is complicated to administer and explain and, as mentioned in A9, treats similarly situated participants differently.

We assume that the proposal to bifurcate the transfer value is somehow intended to fully preserve accrued benefits. But the accrued retirement benefits are not being guaranteed; they are subject to reduction, and always were. Further, the default entitlement is the deferred annuity, not the transfer value. The transfer value is an option. It should not be treated more favourably than the annuity that is primary.

<u>Part 5: Communications</u>

Q 13 Is the communications framework appropriate for NCPPs?

A 13 MEBCO supports full disclosure to MEPP participants. However, we are aware that a communication that is more than a page or two is counterproductive, as it will not be read at all. Subsection 5.1 may well cross that line, with all its proposed required explanations of technical matters. MEBCO suggests that the useful additional disclosure consists only of the following:

- The NCPP's going concern funding ratio, and a statement that transfer values will be paid based on that ratio, which may be updated from time to time, for plans using GC CV.
- A statement that benefits, in the event of adverse plan experience, can be reduced.

<u>Part 6: Administration & Governance</u>

Q 14 Should there be more or less rules regarding NCPP governing bodies (Administrator and/or sponsor)? For example, should the regulations prescribe the proportion of plan members and retirees, presence of independent trustees, required knowledge and skills, etc.?

A 14 MEBCO supports maintenance of the status quo with regard to administration and governance, consistent with the CP.

MEBCO strongly opposes requiring any constituency to be represented as a voting trustee, because trustees are charged with representing all participants in an even-handed way, which would be difficult or impossible for a trustee representing a particular constituency.

MEBCO does not object to independent trustees, but sees no value in compelling their presence, given the likelihood that they would lack knowledge of the industry and its employers and workers and that they would need to be paid, thus depleting plan assets that would otherwise be available for benefits.

MEBCO opposes the imposition of a required knowledge and skill set for trustees. The most important attribute of a trustee is often knowledge of the industry and its employers and workers. Subject expertise can be achieved through education, experience, and retention of capable advisors and should not be compelled. Further, it would be difficult or impossible to define such a requirement, and in some cases would make it difficult or impossible to recruit qualified persons to serve as trustees.

Q 15 Should the legislation or regulations be more prescriptive regarding the governance policy for NCPPs (e.g. require that such plans have a governance policy; set out the minimum contents of a governance policy)?

A 15 MEBCO believes that governance policies are desirable for all plans, and that the current CAPSA guidance is sufficient in that regard. MEBCO sees no reason to distinguish MEPPs from other plans in this respect.

<u>Part 7: Transition Rules</u>

Q 16 Is the transition framework appropriate?

Q17 Have all issues been addressed? Do you agree with transitioning the PfAD on the CSC over a 3 year period?

A 16/17 In view of MEBCO's strong objection to the PfAD concept as presented in the CP, we have no comment on the proposed transition to it. Our view is that it should not be implemented at all. We do agree that any change in CV methodology should be accomplished by a plan amendment.

<u>Part 8: Additional Considerations</u>

Q 18 Do you feel the "Enhanced Going Concern" option would be an acceptable regime as opposed to the Proposed Regime?

A 18 MEBCO finds the Enhanced Going Concern model to be preferable to the Proposed NCPP Regime, but it is still flawed in a number of respects. Specifically:

- GC CV should be permitted.
- Any limitations on benefit improvements should be flexible and based on the relationship between projected contributions and actuarial costs, not on the funded ratio.
- Reducing the amortization period from 15 years to 10 years is preferable to continuing solvency funding, but it forces lower benefits (given that contribution income is fixed) than a

MEPP can reasonably afford to pay, and is likely to compel intergenerational inequity. For example, as each amortization period ends, the actuarial cost decreases, the contributions stay the same, and therefore there is a sudden available margin to increase benefits for a later generation that has been paid for by an earlier generation's contributions.

Q 19 Should a framework similar to the Proposed Regime be an option available to other types of pension plans registered under the Act?

A 19 MEBCO's constituency and expertise are limited to MEPPs, and therefore we offer no opinion on this question.

Q 20 What issues do you foresee will need to be addressed with respect to GC CVs and multi-jurisdictional plans?

A 20 MEBCO is concerned with respect to any mandated differences in benefit rules that vary by jurisdiction for a multi-jurisdictional MEPP. Trustees are likely to adjust the retirement benefits for career employees downward so that identical contributions in different provinces buy benefits with the same total value. For example, if Province A mandates CIA CVs and Province B permits GC CVs, one possible outcome is that identical career employees will retire on smaller benefits if they worked in Province A than those who worked in Province B. Besides the inherent inequity and participant confusion of such an arrangement, there will be administrative headaches with respect to participants who worked in multiple provinces, moving around the country as work opportunities changed.

MEBCO is also concerned about funding rules applicable to MEPPs that differ by province. For example, the Federal jurisdiction continues to require solvency funding for MEPPs. We are aware of a national MEPP registered in a province with a solvency moratorium that refused to accept a large Federal jurisdiction employer because of a concern that this would have created the risk of the plan's registration being transferred at some later point to the Federal jurisdiction, which would have brought it under solvency funding and compelled benefit reductions for all participants nationwide.

Until recently, Québec prohibited reductions in accrued benefits for MEPPs. MEBCO is aware of national plans that excluded Québec employers altogether, as well as national plans that spun the Québec portion of the plan off into a separate plan to avoid "contaminating" participants in the rest of Canada with certain adverse consequences of the Québec SPPA.

Part 10: Closing comments

Q 21 Please provide any additional comment or information related to this paper.

A21 Many of the challenges for MEPPs have resulted from the historic attempts to "shoe-horn" MEPPs into the same regulatory scheme that applies to single employer defined benefit plans. MEBCO applauds and supports the fundamental concept of the CP – that MEPPs are different and need a different regulatory scheme in order to serve the participants and their employers well.

MEBCO reminds the FCAA that the target benefit MEPP model is the success story among the otherwise bleak picture of private sector defined benefit type pension plans. Indeed, legislators are looking for ways to extend that model in hopes of stemming the rush to drop defined benefit plans for defined contribution plans or no retirement plans at all.

As is apparent from the responses in this submission, MEBCO believes that regulatory micro-managing is unnecessary, inappropriate, and likely to accelerate the decline in defined benefit type plans such as target benefit MEPPs – one of the few private sector defined benefit vehicles that is not disappearing. Most MEPPs are responsibly and successfully delivering benefits in a cost-efficient manner without prescriptive government regulations. MEBCO supports regulatory authority to police the few "bad apples" effectively, but regulations telling trustees everything they have to do under every circumstance, such as the CP reflects, are undesirable, and necessarily ignore the wide variety of different conditions applicable to different MEPPs at different times under different circumstances.

MEBCO reminds the FCAA that, in the private sector, target benefit MEPPS have been stable while SEPPs are becoming dinosaurs. To the extent that the CP foreshadows a new regulatory model for target benefit MEPPs that mirrors the objectives of the current SEPP framework, MEBCO is concerned that such new framework will reduce the attractiveness of MEPPs for employers and workers, providing nominally better protection but in fact reducing the availability of DB-type pensions in Saskatchewan even further.

Also, the costs of compliance are reflected in lower benefits because the trustees must manage a plan within the limits of contributions over which they have no control. This suggests that any regulatory requirements be kept to those that are necessary to assure participants that the relationship between benefits and contributions is within appropriate limits and that communication is transparent but not excessive.[1]

MEBCO representatives are available to meet with the appropriate legislators, ministers and FCAA staff to facilitate the process of establishing a new and appropriate regulatory framework for target benefit MEPPs. Thank you for the opportunity to express our views in this submission.

8386128v1/10388.003

Robert R. Blakely
President

[1] This concept, which applies in many non-pension situations, is referred to as the "inverted U curve." Providing too little information to participants is inappropriate. As more information is provided, the participants become better informed. But at some point, so much information is provided that the participants "glaze over" and no longer read or understand any of it. In our experience, a benefit statement of more than a few pages is sliding down the back side of the inverted U curve, doing more harm than good.

MULTI-EMPLOYER BENEFIT PLAN COUNCIL OF CANADA

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MEBCO RESPONSE TO SASKATCHEWAN FINANCE AND CONSUMER AFFAIRS AUTHORITY CONSULTATION PAPER: "PROPOSED REGIME FOR NEGOTIATED COST PENSION PLANS"

June 14, 2016

Tami Dove
Senior Policy Analyst, Pensions Division
Financial and Consumer Affairs Authority
Suite 601, 1919 Saskatchewan Drive
Regina SK S4P 4H2

Via email: tami.dove@gov.sk.ca

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4. The obligation to manage any intergenerational equity issues must rest with a target benefit MEPP's board of trustees.
5. The primary financial measure for a target benefit MEPP is the relationship between contribution income and actuarially calculated cost.
6. Target benefit MEPPs should not be obligated to offer transfer values. If mandated by legislation, transfer values should (1) reflect the funding level of the plan; (2) reflect that the recipient is no longer subject to the risk of benefit reductions; and (3) be computed identically in all jurisdictions (or at least be computed identically for all participants in a single plan).
7. Target benefit MEPP boards of trustees must retain the responsibility for establishing the treatment of affected benefits when an employer terminates or reduces its participation.
8. Margins should be required only for purposes of determining any potential benefit changes.
9. Target benefit MEPPs should be able to suspend monthly pension payments if the member works in the same trade or craft, industry and geographic location as is covered by the MEPP, whether or not such work requires contributions to the MEPP.
10. Target benefit MEPP benefit volatility should be considered in the context of marital breakdown situations.

We make the following comments on the Consultation Paper in the context of MEBCO's guiding principles.

a) The CP reflects the government's view of favouring benefit security over benefit adequacy. With a fixed negotiated contribution, that inevitably means lower benefits for current retirees than a MEPP can reasonably afford to provide.

b) Some of the proposals in the CP create a regulatory framework that potentially compels intergenerational inequity, which is undesirable.

c) The CP focuses primarily on funded levels. For an ongoing MEPP, that is an inadequate measure of plan health. A fully funded plan with contributions less than the normal cost is a plan in financial trouble. A plan that has an unfunded actuarial liability with contributions adequate to pay the normal cost, reasonable amortization of the unfunded actuarial liability, and plan expenses is a healthy plan. MEBCO suggests that any measures of plan health, of the need to reduce benefits, of the opportunity to increase benefits, etc., be based on the relationship between contribution income and actuarially calculated cost, not based on funded ratios.

d) Part of the CP relates to the proper measure of transfer values. Those concerns all disappear if the requirement to pay transfer values is eliminated altogether for MEPPs – a change that MEBCO supports. A worker's union has negotiated a defined benefit type pension for its members. There is no obvious reason why a terminating employee should have the option to convert that negotiated benefit into a defined contribution balance. This is particularly true for broad-based MEPPs, where portability is automatic among all participating employers. With respect to Section 4.4 of the CP, MEBCO opposes the grandfathering of the CIA CV methodology with respect to conversion date accrued benefits, because of the added administrative costs, the absence of solvency funding for those accruals, and the inconsistency with other jurisdictions.

Our comments on the specifics of the CP follow. Overall, we are concerned that the CP is proposing simple rules that can be applied mathematically to all MEPPs. However, the reality is that MEPPs vary substantially from each other in important ways. What is reasonable for a large national industrial plan may make no sense for a local construction plan. To the extent that the FCAA is looking for backing for simplistic mathematical rules, we cannot be supportive. Thus, we are more inclined to favour giving regulatory discretion and review powers for principles-based regulations than to establish bright lines that apply identically to all MEPPs under all circumstances. We recognize that this is more of a regulatory challenge, but the trustees, with the assistance of their advisors, have the knowledge to reflect differing circumstances differently. The government often passes laws that prohibit treating similar circumstances differently; it should not require treating different circumstances the same.

Part 1: Introduction & Background

Q 1 With respect to each Part, are there any additional concerns or considerations that you wish to identify?

Q 2 Do you agree with the principles?

A 1/2 As is clear from our introduction above and our responses to the specific questions below, MEBCO has significant concerns with some aspects of the CP.

Part 2: Funding

Q 3 Do you agree with the proposed funding requirements, including the method of calculating the PfAD?

A 3 MEBCO supports the elimination of solvency funding requirements, but sees no value in calculating what the required solvency funding requirement (with five-year amortization) would be if solvency funding did apply.

As indicated above, a PfAD is only relevant at the time when benefit changes are being considered. At that time, plan maturity, demographics, employer diversity, presence or absence of a dominant employer, investment policy, risk of future decline in covered employment, risk of disruption to employers, benefit adequacy, and even the actuarial cost method and assumptions are all potentially important factors. MEBCO could support requiring that the Pension Division be given a "benefit change report" that outlines the analysis and reasoning that went into a proposed change, along with a 60-day period during which the Pension Division could either approve the change, deny approval, or request further information. MEBCO does not support a one-size-fits-all mathematical test.

Note that a PfAD is likely to compel intergenerational inequity. It forces lower benefit levels than a plan can reasonably afford while the PfAD is being funded. Once the PfAD is funded, future plan members reap the benefit, which was funded by prior generations of members. Further, it is reasonably likely that the PfAD will prove unnecessary, thus enabling benefit improvements for a later generation that were paid for by an earlier generation.

Q 4 Should the rules be more prescriptive regarding the funding policy for an NCPP (e.g., require that such plans have a funding policy; set out the minimum contents of a funding policy)?

A 4 First, the term "funding policy" is a misnomer. Funding is determined by the bargaining parties, not the trustees. Better terminology would be "benefit policy," since that is what the trustees control. As with other elements of the CP, bright line rules are, in MEBCO's view, counterproductive. The concept that there is a benefit policy with a specific advance set of priorities for benefit changes sounds attractive. However, the need to reduce benefits can come about as the result of a variety of different circumstances, and having a simple solution for a complex problem will inevitably lead to sub-optimum decisions. A benefit policy could reasonably outline the process that the trustees will use when benefit changes are being considered, but a policy constraining the actual decisions, or giving participants advance notice with respect to unknowable future changes, is counter-productive and likely to lead to bad decisions and/or litigation.

Q 5 Is stress testing an appropriate way to understand the risks of an NCPP?

A 5 MEBCO reminds the FCAA that, for a target benefit MEPP, any mandated governance costs come out of resources that would otherwise be used for benefits. Stress testing is unquestionably desirable for most MEPPs. However, what testing is useful and justifiable by a cost-benefit analysis will vary widely. MEBCO therefore suggests that stress testing be encouraged as part of good governance, but not mandated.

Part 3: Benefit Improvements & Benefit Reductions

Q 6 Do you agree that an NCPP should have AGCE in order to improve benefits?

A 6 MEBCO's view is that, at the time benefit improvements (or reductions) are being considered, Trustees should be sure that any such changes leave the MEPP with a prudent margin of projected contributions compared to projected actuarial costs on a collective basis (i.e., with respect to the benefits and contributions for the entire plan, not just for the change being considered). MEBCO does not support a test that looks only at actuarial liabilities without considering the totality of costs and contributions. MEBCO does not support a formulaic "one size fits all" rule that substitutes a universal formula for a plan-specific consideration of the risks and benefits.

Q 7 Do you feel that there should be rules in the Regulations regarding the order of benefits to be reduced to meet the solvency tests?

A 7 The more that trustees' hands are tied, the more likely it is that they will be forced to take actions that may make little or no sense under the circumstances at the time. Therefore, MEBCO opposes mandatory priorities for benefit reductions. For example, reductions may be needed due to declining employment, changes in mortality, changes in retirement patterns, investment losses, etc. Some of these causes are solely related to active employees, others are not. Reductions to pensions in pay status may be more tolerable for those with higher benefit amounts than to those with more marginal income. Plan maturity may impact how effective different reductions will be, and what magnitude of margin is acceptable. Reversing recent improvements may or may not be acceptable. Most important, the need for reductions is rarely due to a single cause, so judgment is required to achieve a fair balance.

Part 4: Benefit Types

As mentioned earlier, MEBCO prefers to have transfer values eliminated altogether. Further, MEBCO strongly opposes the bifurcated methodology of subsection 4.4, and would like there to be a uniform national methodology for determining transfer values for MEPPs (or at least a single rule with respect to participants in a particular plan). For example, MEBCO notes that the new Québec regime for MEPPs computes funded transfer values on a solvency basis, whereas other jurisdictions, including Saskatchewan, are considering a going concern model.

In the absence of uniformity of transfer values by jurisdiction for a multi-jurisdictional MEPP, the Trustees may well choose to provide lower retirement and disability pension benefits to members in jurisdictions that mandate higher transfer values, which would be confusing and hard for participants to accept.

Q 8 Would the NCPPs that you are involved with be interested in GC CVs?

A 8 Subject to the comments above, MEBCO believes that most trustees would welcome the GC CV model. It encourages leaving one's pension entitlement as a deferred defined benefit annuity, which is what was bargained for in the first place, and it avoids treating terminated employees more favourably than continuing employees if a benefit reduction is required. In addition, GC CVs facilitate more equitable and appropriate outcomes for career employees. Further, this approach is consistent with the manner in which the pension benefits are funded.

Q 9 Are there any significant issues respecting preparation of an AVR, member communications, or inequity where an NCPP provides for both methodologies of calculating commuted values (i.e., CIA CV and GC CV)

A 9 As indicated above and in A 12, MEBCO feels strongly that no plan should be required to compute transfer values on a bifurcated basis. An AVR is more complex and expensive to produce with multiple transfer value rules. Workers who imagine that they should have similar transfer values may well be confused when this turns out not to be the case. And there will be a clear inequity if benefits need to be reduced and a terminated former member who has received a full CIA CV is protected from the impact.

Q 10 What are your views on the proposed methodology used to calculate the GC CV?

A 10 MEBCO is supportive of the proposed GC CV methodology.

Q 11 Given that members could be entitled to a GC CV (a CV that reflects the funded status), should plans that use the GC CV methodology be required to file periodic updates on their funded position to ensure that commuted value more accurately reflects the funded position of the plan at the time of transfer?

A 11 MEBCO agrees that the volatility of investment markets and employment means that there needs to be some adjustment process between AVR filings (which themselves are not due until nine months after the valuation date). Therefore, MEBCO supports a uniform, simplified updating process, no more frequently than quarterly, that is primarily or exclusively driven by asset changes and that does not require updated actuarial liability calculations.

Q 12 Should the ability to convert past benefits calculated using the GC CV methodologies be provided at this time to NCPPs?

A 12 MEBCO strongly supports having post-conversion transfer values computed solely on GC CVs. The CIA CV regime assumes solvency funding is continuing, so that within five years today's solvency liability will be fully funded. That will not be happening under the proposed regime. In addition, it is complicated to administer and explain and, as mentioned in A9, treats similarly situated participants differently.

We assume that the proposal to bifurcate the transfer value is somehow intended to fully preserve accrued benefits. But the accrued retirement benefits are not being guaranteed; they are subject to reduction, and always were. Further, the default entitlement is the deferred annuity, not the transfer value. The transfer value is an option. It should not be treated more favourably than the annuity that is primary.

<u>Part 5: Communications</u>

Q 13 Is the communications framework appropriate for NCPPs?

A 13 MEBCO supports full disclosure to MEPP participants. However, we are aware that a communication that is more than a page or two is counterproductive, as it will not be read at all. Subsection 5.1 may well cross that line, with all its proposed required explanations of technical matters. MEBCO suggests that the useful additional disclosure consists only of the following:

- The NCPP's going concern funding ratio, and a statement that transfer values will be paid based on that ratio, which may be updated from time to time, for plans using GC CV.
- A statement that benefits, in the event of adverse plan experience, can be reduced.

<u>Part 6: Administration & Governance</u>

Q 14 Should there be more or less rules regarding NCPP governing bodies (Administrator and/or sponsor)? For example, should the regulations prescribe the proportion of plan members and retirees, presence of independent trustees, required knowledge and skills, etc.?

A 14 MEBCO supports maintenance of the status quo with regard to administration and governance, consistent with the CP.

MEBCO strongly opposes requiring any constituency to be represented as a voting trustee, because trustees are charged with representing all participants in an even-handed way, which would be difficult or impossible for a trustee representing a particular constituency.

MEBCO does not object to independent trustees, but sees no value in compelling their presence, given the likelihood that they would lack knowledge of the industry and its employers and workers and that they would need to be paid, thus depleting plan assets that would otherwise be available for benefits.

MEBCO opposes the imposition of a required knowledge and skill set for trustees. The most important attribute of a trustee is often knowledge of the industry and its employers and workers. Subject expertise can be achieved through education, experience, and retention of capable advisors and should not be compelled. Further, it would be difficult or impossible to define such a requirement, and in some cases would make it difficult or impossible to recruit qualified persons to serve as trustees.

Q 15 Should the legislation or regulations be more prescriptive regarding the governance policy for NCPPs (e.g. require that such plans have a governance policy; set out the minimum contents of a governance policy)?

A 15 MEBCO believes that governance policies are desirable for all plans, and that the current CAPSA guidance is sufficient in that regard. MEBCO sees no reason to distinguish MEPPs from other plans in this respect.

<u>Part 7: Transition Rules</u>

Q 16 Is the transition framework appropriate?

Q17 Have all issues been addressed? Do you agree with transitioning the PfAD on the CSC over a 3 year period?

A 16/17 In view of MEBCO's strong objection to the PfAD concept as presented in the CP, we have no comment on the proposed transition to it. Our view is that it should not be implemented at all. We do agree that any change in CV methodology should be accomplished by a plan amendment.

<u>Part 8: Additional Considerations</u>

Q 18 Do you feel the "Enhanced Going Concern" option would be an acceptable regime as opposed to the Proposed Regime?

A 18 MEBCO finds the Enhanced Going Concern model to be preferable to the Proposed NCPP Regime, but it is still flawed in a number of respects. Specifically:

- GC CV should be permitted.
- Any limitations on benefit improvements should be flexible and based on the relationship between projected contributions and actuarial costs, not on the funded ratio.
- Reducing the amortization period from 15 years to 10 years is preferable to continuing solvency funding, but it forces lower benefits (given that contribution income is fixed) than a

MEPP can reasonably afford to pay, and is likely to compel intergenerational inequity. For example, as each amortization period ends, the actuarial cost decreases, the contributions stay the same, and therefore there is a sudden available margin to increase benefits for a later generation that has been paid for by an earlier generation's contributions.

Q 19 Should a framework similar to the Proposed Regime be an option available to other types of pension plans registered under the Act?

A 19 MEBCO's constituency and expertise are limited to MEPPs, and therefore we offer no opinion on this question.

Q 20 What issues do you foresee will need to be addressed with respect to GC CVs and multi-jurisdictional plans?

A 20 MEBCO is concerned with respect to any mandated differences in benefit rules that vary by jurisdiction for a multi-jurisdictional MEPP. Trustees are likely to adjust the retirement benefits for career employees downward so that identical contributions in different provinces buy benefits with the same total value. For example, if Province A mandates CIA CVs and Province B permits GC CVs, one possible outcome is that identical career employees will retire on smaller benefits if they worked in Province A than those who worked in Province B. Besides the inherent inequity and participant confusion of such an arrangement, there will be administrative headaches with respect to participants who worked in multiple provinces, moving around the country as work opportunities changed.

MEBCO is also concerned about funding rules applicable to MEPPs that differ by province. For example, the Federal jurisdiction continues to require solvency funding for MEPPs. We are aware of a national MEPP registered in a province with a solvency moratorium that refused to accept a large Federal jurisdiction employer because of a concern that this would have created the risk of the plan's registration being transferred at some later point to the Federal jurisdiction, which would have brought it under solvency funding and compelled benefit reductions for all participants nationwide.

Until recently, Québec prohibited reductions in accrued benefits for MEPPs. MEBCO is aware of national plans that excluded Québec employers altogether, as well as national plans that spun the Québec portion of the plan off into a separate plan to avoid "contaminating" participants in the rest of Canada with certain adverse consequences of the Québec SPPA.

Part 10: Closing comments

Q 21 Please provide any additional comment or information related to this paper.

A21 Many of the challenges for MEPPs have resulted from the historic attempts to "shoe-horn" MEPPs into the same regulatory scheme that applies to single employer defined benefit plans. MEBCO applauds and supports the fundamental concept of the CP – that MEPPs are different and need a different regulatory scheme in order to serve the participants and their employers well.

MEBCO reminds the FCAA that the target benefit MEPP model is the success story among the otherwise bleak picture of private sector defined benefit type pension plans. Indeed, legislators are looking for ways to extend that model in hopes of stemming the rush to drop defined benefit plans for defined contribution plans or no retirement plans at all.

As is apparent from the responses in this submission, MEBCO believes that regulatory micro-managing is unnecessary, inappropriate, and likely to accelerate the decline in defined benefit type plans such as target benefit MEPPs – one of the few private sector defined benefit vehicles that is not disappearing. Most MEPPs are responsibly and successfully delivering benefits in a cost-efficient manner without prescriptive government regulations. MEBCO supports regulatory authority to police the few "bad apples" effectively, but regulations telling trustees everything they have to do under every circumstance, such as the CP reflects, are undesirable, and necessarily ignore the wide variety of different conditions applicable to different MEPPs at different times under different circumstances.

MEBCO reminds the FCAA that, in the private sector, target benefit MEPPS have been stable while SEPPs are becoming dinosaurs. To the extent that the CP foreshadows a new regulatory model for target benefit MEPPs that mirrors the objectives of the current SEPP framework, MEBCO is concerned that such new framework will reduce the attractiveness of MEPPs for employers and workers, providing nominally better protection but in fact reducing the availability of DB-type pensions in Saskatchewan even further.

Also, the costs of compliance are reflected in lower benefits because the trustees must manage a plan within the limits of contributions over which they have no control. This suggests that any regulatory requirements be kept to those that are necessary to assure participants that the relationship between benefits and contributions is within appropriate limits and that communication is transparent but not excessive.[1]

MEBCO representatives are available to meet with the appropriate legislators, ministers and FCAA staff to facilitate the process of establishing a new and appropriate regulatory framework for target benefit MEPPs. Thank you for the opportunity to express our views in this submission.

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Robert R. Blakely
President

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[1] This concept, which applies in many non-pension situations, is referred to as the "inverted U curve." Providing too little information to participants is inappropriate. As more information is provided, the participants become better informed. But at some point, so much information is provided that the participants "glaze over" and no longer read or understand any of it. In our experience, a benefit statement of more than a few pages is sliding down the back side of the inverted U curve, doing more harm than good.

MORNEAU SHEPELL

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By Email to Tami Dove, Senior Policy Analyst

July 29, 2016

CONFIDENTIAL

Pension Division
Financial and Consumer Affairs Authority
Suite 601, 1919 Saskatchewan Drive
REGINA, SK S4P 4H2

RE: Response to Saskatchewan Consultation Paper – Proposed regime for Negotiated Cost Pension Plan

Dear Sir or Madam:

Thank you for the opportunity to submit our response to the Saskatchewan Consultation Paper – Proposed regime for Negotiated Cost Pension Plan. This is an area in which our actuaries have spent considerable time and effort in other jurisdictions.

We believe that Negotiated Cost Pension Plans (NCPPs) represent an important step forward in the evolution of pension plan design. As more and more DB pension plans migrate to a DC plan design, there is some urgency in making plans like NCPPs a reality. We hope that our comments, attached, will prove useful in helping to develop a framework that will allow for the implementation of NCPPs in a manner that is both practical and effective.

Please do not hesitate to contact the undersigned should you require any further information regarding our submission.

Sincerely,

Fred Vettese
Chief Actuary

416-383-6343 (direct dial)
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FOREWORD

Morneau Shepell commends Saskatchewan on its consultation paper, which we expect will lead to the introduction of private sector Negotiated Cost Pension Plans (NCPPs) in the very near future. The long-term sustainability of the traditional DB plan is very much in question and yet DC plans, the only viable alternative until recently, have their own drawbacks. The time has come for a new hybrid vehicle that shares risk between employers and employees in a more sustainable manner, while preserving some of the more attractive features of DB plans. In our opinion, NCPPs are very promising in this respect.

Although the focus of Saskatchewan's consultation paper is on developing a NCPP framework for private sector NCPPs already in existence, Morneau Shepell is pleased to note that Saskatchewan is asking questions that suggest single-employer NCPPs might also be considered. Timing is important, however, and hence we strongly encourage Saskatchewan to address these questions sooner rather than later. If NCPPs are implemented in a timely manner, they can consolidate, and possibly increase, DB-like pension coverage and in the process strengthen the crucial third pillar of our retirement income system. The alternative is a continued decline in DB-like pension coverage in the province. We fully expect that the framework developed for private sector NCPPs will be flexible enough to support single employer plans (SEPs).

In developing the NCPP framework, we encourage Saskatchewan to consider what has already been implemented elsewhere in Canada, in particular the operational framework that has been established in New Brunswick, Alberta and British Columbia (e.g., PfAD, required funding and benefit policy, integrated approach to investment, funding and benefit policy development). In doing so, it is important to ensure that Saskatchewan's framework will be workable in other jurisdictions.

We also caution that the minimum level of benefit security within a private sector NCPP has to be appropriate, meaning it should be neither too high nor too low. The problems with too low a level of security are obvious. Trying to achieve a very high level of security is also problematic, however, since it brings with it some undesirable side-effects. If we foster the notion that benefits are guaranteed, then any future reduction in benefits will be met with shock and anger. We have to remember that private sector NCPPs are not DB plans. If plan participants are made fully aware of the possible variability in benefits, then that variability ends up being less of an issue when it does arise. This phenomenon has already been demonstrated to be true within DC pension plans.

Another problem with aiming for too high a level of benefit certainty in a private sector NCPP is that it exacerbates the inevitable problem of promoting intergenerational equity. It could result in benefits to current participants being lower than they might otherwise achieve; it could be a future generation that enjoys increased pensions or lower contributions at the expense of the current generation. This is not to say that a funding buffer is unnecessary, but it should not be excessive and it should seek to achieve reasonable balance in the treatment of different plan member cohorts over time.

One of the key questions that is not dealt with in the current consultation paper and that needs to be addressed for private sector NCPPs, is whether to allow the retrospective adoption of NCPPs, subject to a transition period. Without this feature, we believe that the incentive for current NCPPs to adopt more prudent funding will be diminished or alternatively, the outcomes will fall short of the principles underlying the proposed change. Furthermore, single employers with DB plans, if the option is extended to them, will opt to go straight to DC plans, which is generally a less favourable outcome for employees than a well-designed private sector NCPP. We acknowledge that individual rights need to be preserved and that, in any retrospective conversion, member consent may be needed, but the rules for what constitutes an adequate level of consent cannot be so onerous as to make private sector NCPPs impractical to implement.

The final point before proceeding to the main body of our submission is to stress the importance of flexibility, simplicity and transparency. If the Government believes that smaller pension plans should also be able to adopt private sector NCPPs, then it should not make compliance too difficult or too costly.

With these points in mind, Morneau Shepell appreciates the opportunity to share its thoughts on the questions raised in Saskatchewan's consultation paper. The undersigned and various other representatives of Morneau Shepell would be pleased to address any questions that arise from this submission.

Morneau Shepell
July, 2016

Contents

Part 1: Introduction & Background 5

Part 2: Funding 6

Part 3: Benefits Improvements & Benefit Reductions 10

Part 4: Benefit Types 12

Part 5: Communications 14

Part 6: Administration & Governance 15

Part 7: Transition Rules 17

Part 8: Additional Considerations – Section 8.1: Alternative – "Enhanced Going Concern" 18

Part 8: Additional Considerations – Section 8.2: Expand the Proposed Regime to Other Pension Plans 18

Part 8: Additional Considerations – Section 8.3: Multi-Jurisdictional Pension Plans 18

Part 9: Closing Comments & Contact Information 20

Part 1: Introduction & Background

1.1 Do you agree with the principles?

We infer from the stated principles that the Government is seeking to:

- Enhance the sustainability of benefits while maintaining a reasonable level of security under private sector NCPPs.
- Improve plan member understanding of the risks and rewards associated with the pension plan to avoid unpleasant surprises and to better equip plan members to plan their own retirement.
- Promote intergenerational equity.

In doing so, the government is seeking an operating structure that:

- Is not so cumbersome as to result in operating expenses that are unreasonable relative to the size of the plan and related contributions, and
- Offers sufficient flexibility for individual plan administrators to make decisions that, while always consistent with the underlying principles, are not overly constrained by prescriptive regulations.

If that is the overall view, then we are in support of these principles.

We wish to emphasize that the rules should allow the party or parties who are authorized to amend the plan to take the cost of compliance into account when considering what activities are essential to sound risk management. Such party or parties should also be allowed some flexibility in making informed choices about risk and communication to members, consistent with the principles above.

If one starts from the fundamental fact that, ultimately, only actual contributions and actual investment income are available to pay benefits in a private sector NCPP, then the focus needs to be on how to best manage the plan assets and the level and timing of benefits to achieve optimal plan performance under the stated principles. Consequently, the party or parties authorized to amend the plan should be able to develop an approach that achieves an appropriate balance between the risk of a reduction in benefits and the level of current benefits. We would further argue that so long as this is properly communicated to members and operated along the lines of the other principles, such as even-handed treatment of participants, then plan sponsors or other decision-makers should be afforded flexibility in the choices made.

Part 2: Funding

2.1 Do you agree with the proposed funding requirements, including the method of calculating the PfAD?

We agree with the general direction of the funding requirements, namely, to include a PfAD for funding purposes in the CSC with a lag for this implementation, requiring calculation of a PfAD on liabilities but not requiring it be funded, requiring a reserve be established before benefits are improved and the removal of solvency funding requirements; with the proviso on the last item, that the risks associated with removal of solvency funding be made clear to plan members who have pre-conversion service.

PfAD

We encourage regulations that are principles-driven rather than rules-based generally, and for PfADs in particular. We believe the selection of appropriate PfAD level should be aligned to each plan's actual risk profile including asset-liability mismatch, maturity of membership and level and timing of benefit adjustments under the terms of the funding and benefit policies.

Ideally, a well-governed plan with comprehensive funding/benefit policy would set out the criteria for the appropriate level of PfAD. If done properly, the regulations or rules would not need to intervene beyond this. That said, we understand the need for certain minimums.

In consideration of the above, a minimum standard for purposes of the regulation could be to require:

- A written benefit policy which stipulates the criteria and level of the PfAD taking into consideration the plan's characteristics;
- Annual confirmation, review and revisions, if required, of such policy with emphasis on the PfAD;
- An annual report on the change in the PfAD; and
- A bare minimum lower threshold for the PfAD that would result in an X% or greater probability that the plan's funded ratio will not deteriorate in the next Y years, with X and Y being determined at a level that achieves a reasonable balance between benefit security and intergenerational equity.

The above would address each plan's traits, invested assets, expected cash flows and the factors set out in the CIA's research paper on PfADs. In addition, it would provide annual monitoring, be consistent with principles-based regulations, and ensure focus on the PfAD which should translate into better benefit security.

This process would be part of appropriate plan governance and similar to that followed for a plan's investment policy and consistent with the CIA's Standards of Practice for Pension Plans.

On the proposed PfAD table and process presented in Section 2 of the Consultation Paper, we do note that the level of the PfAD should be consistent with the stated principles and help achieve the improvements in outcomes sought by the reform. **It would be interesting, if such research work has been done, to get information on the improvements in sustainability and benefit security that are expected with the proposed funding model and how it maintains reasonable intergenerational equity.** It is a challenge to balance these competing principles and research in this area may be useful to demonstrate how and to what extent the proposed funding rules achieve the intended objectives.

Furthermore, to the extent that the numbers presented on pages 12-13 can be used to illustrate a point, we believe the calculation of the minimum discount rate and the Base PfAD need to be aligned so as not to cause an incentive to take on more investment risk. While we have not carried out actual CSC and liability calculations, we do note there is a risk that the net impact on the plan's funding requirements of added PfAD and minimum discount rate could be reduced by taking on more investment risk. In the examples given on page 13, a plan with 60% in equities would be required to include a 17% PfAD and use a maximum discount rate of 5.87%. Under the proposed rules, a plan administrator could push the equity component to 70%. As a result the PfAD would increase to 18.5% but the minimum discount rate would also increase to 6.04% (i.e. higher PfAD applied to lower CSC and liability). Under this scenario, it is possible that for some plans use of a 6.04% discount rate with a higher PfAD may be cheaper than a 5.87% discount rate and a 17% PfAD, yet the risk, as may be reflected by the distribution of potential outcomes on the left side of the tail of potential future outcomes, may be increased materially. This could militate against the purpose of the PfADs as it relates to benefit security and sustainability.

We further believe the discount rate is an important factor for managing intergenerational equity, particularly for mature plans. Use of a high discount rate with fixed contribution levels will gives the appearance that the plan can afford higher initial benefits at the potential expense of lesser benefits later and vice versa. Additional consideration should be given to making sure the structure proposed provides consistent treatment of plans based on the discount rate selected and that it is aligned with the level of intergenerational equity deemed acceptable by the policymakers.

Benefit Improvement Restrictions

While we agree that benefit improvements should be limited based on the level of funding that exists at the time the improvement is contemplated, we do note a few concerns.

From an intergenerational transfer perspective, there is a concern that a fund may never reach the targeted level and yet still build up a significant "excess", so that it is only the future generation of members who will benefit from the final surplus. This intergenerational transfer is not an intended purpose of a pension plan and would be inconsistent with the current tax regimen in place.

We suggest that some latitude for benefit improvements be allowed. Consider a plan where a contribution increase is negotiated, but it is effective only if there is a modest increase in benefits resulting from such increase. If the plan did not attain its target PfAD at the time of this potential change, neither the benefit increase nor the contribution increase would occur. But if the value added to the plan due to the contribution increase was more than the actuarial value of the benefit increase, then this overly prescriptive rule would have actually prevented the plan from improving its funded position (because some of the contribution increase is going to build up the PfAD). There should be an exception made for benefit improvements if they result from contribution increases provided that the actuary can certify that the benefit improvement value is less than X% of the contribution increase. The "X" in the formula would certainly have to be 100 or less, but to be meaningful should be greater than 50.

Withdrawal of AGCE

We agree with the proposal subject to comments earlier on intergenerational equity. If AGCE is allowed to grow indefinitely, there could be a transfer to future generations that exceeds intended level of intergenerational transfers. Consequently, consideration could be given to allow partial contribution reductions based on an amortization of Y% of the AGCE over say 15 years to improve intergenerational equity, provided the resulting contribution reduction to both employer and plan members does not exceed X% of the contributions before the reduction. The "X" and "Y" in the formula would certainly have to be 50 or less, but to be meaningful should be greater than 10.

Actuarial Gains

The suggested approach seems reasonable.

2.2 Should the rules be more prescriptive regarding the funding policy for an NCPP (e.g. require that such plans have a funding policy; set-out the minimum contents of a funding policy)?

We believe the filing of a formal funding policy document should be a requirement. The funding policy is the tool that would be used for risk management and would provide greater transparency to plan members as to the range of actions that may be contemplated in different future scenarios. While the regulations need not be overly prescriptive as to the exact content of such funding policy, it should outline the areas that would need to be covered in such a policy. For example, the regulatory framework could establish all actions that are required or allowed when establishing a funding and benefit policy, with minimum requirements being specified where deemed necessary. These actions could include PfADs, use of AGCE, amortization periods, allowance for base and extra benefits etc. In effect, the regulation would describe what tools or approaches can be used to manage risk and meet minimum funding standards.

2.3 Is stress testing an appropriate way to understand the risks of an NCPP?

Stress testing is helpful in providing more information on the risks involved for plan members should certain scenarios come to pass. However, they provide only a limited sample of the range of potential risks and no insight on the potential frequency of the tested scenarios. They also potentially provide users with a false sense of "the worst" outcomes. Such testing may be more cost effective for smaller plans and for smaller consulting firms. If this is implemented, the Government may wish to consider having standard stress testing scenarios much like what is done in the insurance industry.

Furthermore, for future investment performance, stochastic modeling would be the preferred methodology for large plans as it covers a broader range of stress tests. However, the costs of this process may impose barriers to small plans.

Part 3: Benefits Improvements & Benefit Reductions

3.1 Do you agree that an NCPP should have AGCE in order to improve benefits?

We do agree with the concept of an AGCE as excess funds at any one time may prove to be only temporary. However, in circumstances where benefits have been previously reduced, consideration could be given to develop rules to allow for use of a portion of the PfAD for the reinstatement of the portion of the benefit previously lost even though the ACGE may be very small.

We also note that improvements of current service benefits would be allowed to be paid from the ACGE. We caution that such a rule could lead to a situation where the ACGE is eliminated due to unfavourable plan experience and contributions are insufficient to fund the improvement for current service. Perhaps some limitation should be considered, either as a % of ACGE or a % of contributions on any future benefit improvements not funded by a contribution increase, to improve stability and sustainability of intended benefits.

3.2 Do you feel that there should be rules in the Regulations regarding the order of benefits to be reduced to meet the solvency tests?

We believe certain minimum rules should be in place to ensure the intergenerational equity principle is respected at the desired level. For example, a decision may be made to improve or reduce future benefits that either favours or otherwise affects a particular member cohort more than others. For example, in New Brunswick, current service benefits cannot be reduced by more than 5% to protect younger and future members. While 5% may not be the right number in Saskatchewan, a similar concept could be introduced for all distinct member cohorts. As an alternative to imposing a limit, plan administrators could be required to state in their funding policy how they will allocate such excess or deficient funds among the various generations of plan members.

The order of benefit reductions could be left to plan sponsors to determine or negotiate. However, the restoration of previously administered reductions should logically follow the principle that the first or oldest benefit reduction gets reversed first to align with the equity principle.

Finally, we believe that it is critical to consider some notice period before benefits are reduced and that such notice be provided to members outside the normal annual statement process. Once notice has been given and if the next annual statement is produced before the reduction takes effect, then an additional note to the annual statement could be added (it could be the previous notice or some variation of it). A longer notice period could be beneficial for affected members and may avoid reductions that later prove unnecessary, but we recognize that this could make it more difficult to redress a plan’s financial situation. We do not have specific suggestions here but from previous analyses believe that the incidence of potential reductions could be reduced meaningfully with thoughtful, research-based, rules. For example a lag of 3 years between the date a reduction is required and the date the reduction is actually implemented would give time in some scenarios for recovery to occur without having to take action. A longer period, probably not to exceed 5 years could be considered at the risk that the reductions when applied could be more significant. Plans wishing to avail themselves of this feature could be asked to conduct financial analysis to support the inclusion of such a feature in their funding policy. Nevertheless, we would suggest that a longer minimum notice period apply when benefit reductions are more substantial, in which case it could be more appropriate to announce gradual benefit reductions. The disadvantage of a longer lag period is that things could get worse in the meantime leading to a larger reduction than otherwise would have been necessary earlier.

Part 4: Benefit Types

4.1 Would the NCPPs that you are involved with be interested in GC CVs?

While we have no NCPP clients in Saskatchewan at present, we do have clients with similar plans in other provinces. We would expect that plan sponsors and administrators of NCPPs will regard GC CVs as consistent with the nature of their plans (no benefit guarantee and fixed costs) subject to our comments on transfer values for past benefits.

4.2 Are there any significant issues respecting preparation of an AVR, member communications, or inequity where an NCPP provides for both methodologies of calculating commuted values (i.e. CIA CV and GC CV)?

There are no significant issues and a solvency valuation using CIA standards should be required as a measure of benefit security for all plans and all benefits pre and post-conversion.

4.3 What are your views on the proposed methodology used to calculate the GC CV?

The proposal of a GC CV is aligned with the nature of NCCPs for benefits after conversion but not for benefits before conversion. However, we believe it may be easier from a communications perspective to require the payment of the CIA CV multiplied by the transfer ratio at the last valuation for both pre and post conversion service (subject to required update if movement exceeds a certain pre-determined threshold during the intervaluation period) in lieu of a GC CV. The advantages are:

- the calculation would not change from present;
- it would make the impact of the change in the transfer value basis clear to plan members;
- it could afford a more consistent treatment of members in different plans and jurisdictions;
- it also would treat the calculation of the transfer value for pre and post conversion service consistently (only one factor needed);
- it would be more equitable in partial wind-up situations; and
- the potential impact on the ultimate pension would be reflected in the transfer ratio allowing members to make a more informed decision on whether to stay in the plan or transfer out.

With respect to existing private sector NCPPs that presumably already have variable benefits; we would question why terminating members with pre-conversion service requesting a transfer out of the plan, receive favorable treatment over those who remain in the plan. At a minimum, for plans underfunded on a GC basis, it would be reasonable to allow an adjustment of the transfer value for pre-conversion service to the GC funding percentage (maximum 100%).

Finally, transfers for marital breakdowns should be included as well.

4.4 Given that members could be entitled to a GC CV (a CV that reflects the funded status), should plans that provide use the GC CV methodology be required to file periodic updates in their funded position of the plan at the time of transfer?

In order to streamline the administrative effort, we would suggest that such an adjustment should be considered only if the movement in the funding ratio exceeds a certain minimum threshold. Rules could be established under regulations to achieve reasonable balance between the rights of departing and remaining plan members.

4.5 Should the ability to convert past benefits to benefits calculated using the GC CV methodologies be provided at the time to NCPPs?

Not allowing conversion of past benefits raises a number of questions. The following are some of the questions that come to mind:

- If conversion is not allowed, how would the negotiated contributions be allocated between funding past benefits and funding new benefits?
- If past solvency deficits are left unattended and the plan is split in two, could it lead to a situation where past accrued benefits are less secure than benefits accrued after the conversion, particularly in a wind-up or partial wind-up situation?
- How would this affect overall plan sustainability and security relative to the underlying principles, particularly for very mature plans?
- How would this promote the equitable treatment of remaining plan members, if departing long service members receive much more than is available from the fund?

We believe that conversion should be considered in some reasonable manner. Without this feature, we believe that current private sector NCPPs will have little advantage under the new rules and that if these rules are extended to employers with DB plans, they will still opt to go straight to DC plans, which is generally a less favourable outcome than a private sector NCPP. If the advantage is removal of solvency funding, then this will cause a misalignment between the intent of providing benefit security and the contributions required to achieve it. We acknowledge that individual rights need to be preserved and that, in any retrospective conversion, member consent may be needed, but the rules for what constitutes an adequate level of consent cannot be so onerous as to make private sector NCPPs impractical to operate or implement.

Part 5: Communications

5.1 Is the communications framework appropriate for NCPPs?

The information disclosed is appropriate. We would suggest adding communication of the transfer ratio in a very clear manner as we believe it would be useful in assisting members understand the risks inherent in their pension arrangement at the date the communication is made.

One would hope that electronic communication such as email, texting, or web access would be seen as suitable methods in lieu of hard copies mailed.

Part 6: Administration & Governance

6.1 Should there be more or less rules regarding NCPP governing bodies (Administrator and/or sponsor)? For example, should the regulations prescribe the proportion of plan members and retirees, presence of independent trustees, required knowledge and skills, etc.?

Governance for a NCPP presents many challenges. Ideally every major cohort of members should be adequately represented. For retirees and non-bargaining employees, determining how to achieve this may present challenges.

The primary goal should be one where the plan is governed to reflect the interests of all members and member cohorts, without unduly favouring one cohort over another, unless clear and defensible priorities are established in the funding and benefit policy.

In developing the regulations, the Government will have to be very careful to balance the potential conflicts between member cohorts with due regard to all of the principles underlying the legislation. We acknowledge this will not always be easy. The principle of flexibility for example may conflict with the principle of intergenerational equity.

Given the unique features of a private sector NCPP and the fiduciary standard to which the trustees would be held, the requirement to adopt a governance policy will serve to facilitate the proper administration, oversight and management of the plan.

At a minimum, the Act should require that a formal governance policy address the following:

- the structures and processes for overseeing, managing and administering the private sector NCPP;
- the objectives that govern the establishment of those structures and processes;
- the process and requirements for selecting member and pensioner representatives;
- identification of all participants who have authority to make decisions in respect of those structures and processes, and descriptions of the roles, responsibilities and accountabilities of those participants;
- the performance measures and processes for monitoring, against those performance measures, the performance of each of the identified participants in those structures and processes who have the authority to make decisions in relation to those structures and processes;
- procedures to ensure that the trustees and, as necessary, any other participants in those structures and processes have access to relevant, timely and accurate information;
- the establishment of a code of conduct for the trustees and a procedure to disclose and address conflicts of interest;

- identification of the educational requirements and skills necessary to perform the duties associated with those structures and processes;
- identification of the material risks that apply to the private sector NCPP and the internal controls to manage those risks; and
- a process for the resolution of disputes involving members and other persons who are entitled to benefits under the private sector NCPP.

6.2 Should the legislation or regulations be more prescriptive regarding the governance policy for NCPPs (e.g. require that such plans have a governance policy; set-out the minimum contents of a governance policy)?

Governance policies should be developed and maintained, but filing of such policies should not be required. A governance policy should be a "living" document that enables the plan administrator to fulfill its duties. Over time, the plan administrator may find that it needs to frequently update its governance policy to reflect changes in internal processes and procedures, best practices and other new developments. A formalized filing requirement may unnecessarily add to plan administration costs. We believe the regulator may wish to ensure that the plan has a formal governance policy in place by asking the administrator to confirm on the annual information return when that policy was adopted and revised.

The new Alberta and British Columbia pension legislation do not require governance policies to be filed. Rather, the legislation requires that at a minimum, the policy be assessed on a triennial basis and a written report of the assessment be prepared and kept by the administrator. The legislation further provides that if the pension regulator requests a copy of the assessment report, the administrator is obligated to provide it. We support this approach and believe it is consistent with the current risk based framework for the supervision of registered pension plans.

While best practices suggest that plan governance should be reviewed on an annual basis, we note that Alberta and British Columbia only require a triennial assessment. In our opinion, legislation should require a triennial review of a private sector NCPP's governance policy in all cases, with more frequent reviews only in exceptional situations such as where there has been a material change in plan design, benefits administration, or funding, or where the regulator has identified a high level risk under their risk based framework or initiated a plan audit.

Access to governance policies should be made available to plan members on a basis similar to other plan documents. The Government could consider requiring disclosure of the policy in annual statements, similar to other policy disclosures.

Part 7: Transition Rules

7.1 Is the transition framework appropriate? Have all issues been addressed?

The transition framework with respect to PfADs seems appropriate. However, with respect to GC CV, as noted earlier in our response, it is unclear to us if a portion of the contributions would need to be allocated to pre-conversion benefits and if so, how much. Section 7.2 of the consultation paper seems to imply that the AVR would include past benefits on a CIA CV basis. If that is the case, then removal of solvency funding requirements could be of little benefit to current private sector NCPPs at least in the short to medium term; in the long term it could undermine the security of benefits for pre-conversion service. Also the disparity of benefits among generations of plan members may exceed the level intended by the underlying principles.

7.2 Do you agree with transitioning the PfAD on the CSC over a 3 year period?

We agree with this section in principle. However, we would suggest that the three-year maximum be extended to the greater of three years and the average remaining length of applicable collective agreements, such average being determined based on the preponderance of active members under each particular agreement.

Part 8: Additional Considerations – Section 8.1: Alternative – "Enhanced Going Concern"

8.1 Do you feel the "Enhanced Going Concern" option would be an acceptable regime as opposed to the Proposed Regime?

No. Negotiated-cost plans in the private sector would not fit within this model.

Part 8: Additional Considerations – Section 8.2: Expand the Proposed Regime to Other Pension Plans

8.2 Should a framework similar to the Proposed Regime be an option available to other types of pension plans registered under the Act?

This model and plan structure should be available to all plans. Both past service and future service should be allowed to be converted for all members whose pensions are not already in pay, given adequate notice and disclosures. A one-time election to purchase an annuity of the solvent portion could be offered to individuals who want to lock-in a portion of their targeted benefits.

In regards to the pensions in pay, an annuity purchase or buy-in product could be used to protect the pensions in pay.

If the proposed changes to NCPPS are extended to single employer plans, one should keep in mind that such pension plans are set up voluntarily by the sponsoring entity along with the entity usually paying both the majority of the cost of benefits and administration of plan. Given they are the funding agent and since they entered into the plan on their own volition, they should be given right to amend or terminate the "pension" contract. Yes, members need to be protected but not to the detriment of other plan stakeholders.

Otherwise our comments are as discussed previously with suitable adjustments to reflect the type of plan and the sponsoring entity

Part 8: Additional Considerations – Section 8.3: Multi-Jurisdictional Pension Plans

8.3 What issues do you foresee will need to be addressed with respect to CG CVs and multi-jurisdictional plans?

We believe the best approach is for the various regulators to allow employees in their jurisdiction to be governed by the rules of the jurisdiction in which the plan is registered.

In absence of that simple approach, it could be possible to require a split of the plan between jurisdictions having similar rules, as it would draw a more definitive line to ensure benefits and costs are properly aligned to the set of regulations that covers the plan members. An alternative could be to keep a single plan but maintain separate accounts in order to differentiate the funding and benefit policies between jurisdictions having substantially different rules. It is recognized that this may prove cumbersome for some plans where a very large proportion of membership is in jurisdictions that are not similar to Saskatchewan, but this is still preferable for the sake of equity between different groups of members. A possible alternative for consideration is to require that either contributions associated with members from other jurisdictions be higher or that the benefits be lower to align with the nature of the promise in each jurisdiction.

Finally, while we fully support the proposal that a CV linked to the funding level is appropriate for NCPPs where benefits are not guaranteed, we believe greater consistency can be achieved if the calculation basis was CIA Commuted Value basis for both Pre and Post-Conversion benefits. For post conversion benefits, under the proposed rules, the transfer out would then be limited to the CIA CV times the transfer ratio as the last and final payment under a GC CV scenario. This would avoid needing two calculation bases for one termination (one for pre and one for post conversion benefits) but would achieve the same result of protecting the fund from refunds in excess of what it can afford (see response to Question 9 above).

Part 9: Closing Comments & Contact Information

9.1 Please provide any additional comments or information related to this paper.

In conclusion, we agree with the best-estimate going-concern plus explicit PfAD framework. However, we believe strongly that the levels and particulars should be driven not by regulation but by the pension plan stakeholders.

To date, pension plan stakeholders have proven that they can deliver the promised benefits given the relatively small number of pension plan failures in Canada due to stakeholders' mismanagement; although we agree that some failures have been very high profile. Pension plan stakeholders need principles-based regulations to allow for flexibility to adapt to the economic conditions, competition for products and services as well as workers, an aging workforce and demographics all while protecting the rights and entitlements of all stakeholders.

Again, we thank you and your team's time and effort to solicit our feedback and comments on the Paper. We trust this process of dialogue will benefit all pension plan stakeholders with regulations that are practical and flexible to meet the future needs of the pension industry.

Dear Tami,

On behalf of the Saskatchewan Piping Industry Pension Plan, we would like to commend the FCAA on implementing steps to improve the long-term sustainability, benefit security and member equity of NCPPs in Saskatchewan, and for recognizing that NCPPs are a unique group and would benefit from their own regulatory framework. We have reviewed the consultation paper in detail and have outlined our comments / answers below (with numbers corresponding to the questions outlined in part 9 of the consultation paper).

1. We have included any additional considerations with respect to each part of the consultation paper where appropriate in our answers below.

2. We agree with the guiding principles stated in part 1 of the consultation paper. They seem to be in line with similar goals being pursued by regulators in other jurisdictions. However, we have some comments on some of the definitions, as follows:

    - The first sentence in the definition of "pension sustainability" refers to the cost of benefits to plan sponsors and members. We are assuming this was meant to refer to the participating employers, as it is not typical for either the unions or the members involved in these plans to bare any direct costs for the benefits. However, given that the costs to the employers (that is, employer contributions to the NCPPs) are typically negotiated / fixed, we would suggest this first sentence either be removed, or refer instead to the level of conservatism used in setting benefit rates so as to reasonably minimize the chance of future benefit reductions (in which case the two principles of "pension sustainability" and "benefit security" could be combined into one).

    - The definition of "benefit security" could be expanded to recognize that a prudent balance should be sought between two inversely related factors: benefit security and the overall level of benefits. Also, the term "regardless of plan experience" could be interpreted as somewhat absolute – due to the negotiated / fixed nature of the contributions, there could be scenarios where even the most conservatively managed plans are required to reduce benefits. Lastly, terms such as "must provide" could be replaced with more flexible language (we would suggest that NCPPs need to have the flexibility to balance benefit levels vs benefit security)

3. While we generally agree with the proposed funding requirements, including the method of calculating the PfAD, we feel there is some opportunity for fine-tuning. For example, the FCAA might want to consider changing the GC deficit amortization period from 15 years to the lesser of 15 years and the plan's EARSL (Expected Average Remaining Service Life). The EARSL could be calculated at each valuation and would better reflect the future period over which contributions for the current active membership will be made to the plan. For plans with an EARSL less than 10 years (or for plans with few or no active members), an amortization period of 10 years could be used. The impact of this potentially shorter amortization period could be partially offset by continuing to allow any actuarial gains revealed by future valuations to reduce GC special payments proportionately.

We would also suggest considering providing incentives (potentially in the form of lower PfADs) for plans that have implemented elements of asset-liability matching, duration matching, de-risking, or other risk management strategies in their investment policies.

While we feel that the suggestions above would improve adherence to the principles of sustainability, benefit security, and flexibility, we do recognize that they would add complexity to the new regulations.

4. The rules regarding funding policy need not be more prescriptive. For NCPPs the concept of a specific Funding Policy is somewhat moot given the negotiated / fixed nature of the contributions. However, we do feel that the requirement of a Benefit Policy would be appropriate (more on that below).

5. Stress testing is an appropriate way to understand the risks of a pension plan. However, as this is a relatively new area in the pension industry, we would suggest that a more prescriptive approach would help give plan actuaries a starting point, increase plan stakeholder interest in the results and allow for a more consistent basis of comparison across plans. For example, the regulation could encourage stress testing of the following items (as a minimum):
    a. A decrease in future hours of work and/or contribution levels
    b. A decrease in the value of the plan's equity and real-estate investments
    c. An increase in general bond yields
    d. Stress testing for a plan-specific 4th key risk factor or event, as identified by the plan actuary

    To clarify, we would also add that stress testing would increase plan expenses, and therefore should be encouraged, but not mandated (at least for smaller NCPPs). Where mandated, it should not be required any more frequently than every 3 years.

6. We agree that an NCPP should have an AGCE in order to improve benefits. However, we would also suggest that future contribution adequacy is a better metric of a plan's financial health than the plan's current funded status. The FCAA might want to consider allowing benefit improvements in situations where the AGCE requirement is not met, but the plan actuary can opine (using reasonable assumptions) that expected long-term future contributions are sufficient to meet the plan's needs, even after taking benefit improvements into account.

7. We feel that the regulations should require a mandatory Benefits Policy, which would outline the plan's priorities and principles in terms of reducing benefits in the case of contribution shortfalls or plan wind-up shortfalls, as well as similar considerations for increasing benefits in the case of a usable AGCE. Having such a document that plan trustees can refer to would encourage a reasonable progression in benefit changes over time. The regulation could also require the adoption of specific principles in the benefit policy, such as generational equity and income equity. An example of income equity would be benefit reductions that focus on reducing / eliminating early retirement subsidies first (early retirement is typically elected by those who can afford to retire early, and in that sense it is a regressive subsidy from the perspective of the rest of the plan members).

Questions 8 – 12 are addressed here:

We have the following suggestions / considerations on the issue of GC CVs:

a. Given that asset values can change rapidly, we would suggest that the new regulations require the GC funding ratio to be updated at least semi-annually.

b. We would suggest to make the GC CV approach (with corresponding reductions) mandatory, not optional. This will make the change easier for plans to implement and communicate. At the least, the GC CV approach should be mandatory if a plan wants to not be subject to solvency based funding requirements (alternatively, plans could be allowed to continue paying out the CIA CV, so long as they remain subject to solvency funding).

c. The GC CV should be applicable to past benefits as well, otherwise this change could take years (even decades) to have a significant impact on a plan's finances. Note that terminating members can always opt to keep their pension entitlement in the plan. Retro-activity will improve generational equity, avoid conflicts of interest for plan trustees, and help avoid plans trying to circumvent the regulations by reducing accrued benefits for terminating members and / or amending the definition of "termination" (both of which we understand have occurred in other provinces).

13. The communication framework is appropriate.

14. We feel the regulations do not need to prescribe additional requirements for NCPP governance bodies. Any such additional requirements may be difficult to apply consistently to all affected plans, depending on each plan's stakeholders and current governance framework. Furthermore, prescribing the presence of certain types of trustees or certain types of skill sets within trustee groups could create difficulties in terms of compliance.

15. The new regime should not be more prescriptive regarding governance policies. We do not suspect this would generate any additional value in terms of the new regime's guiding principles. We feel the proposed changes are sufficient to that effect, without any additional requirements for governance policies.

16. Aside from our suggestions above, we feel the transition framework is appropriate and complete.

17. We agree with transitioning the PfAD on the CSC over a 3 year period.

18. We do not feel that the "Enhanced Going Concern" option would be a good alternative to the Proposed Regime. Specifically, the GC CV is one of the key changes in the Proposed Regime that we feel would be strongly in accordance with the guiding principles.

19. We are not in a position to comment on this as we do not have any experience with any Saskatchewan registered pension plans other than the one mentioned above.

20. The main issue will be potential CV inequality between plan members from different jurisdictions. In lieu of a nation-wide set of pension laws / regulations, we do not see how this can be avoided. Most major jurisdictions do seem to be heading in a similar direction with respect to NCPPs. Further research would have to be performed in order to identify other potential issues for each jurisdiction outside of Saskatchewan.

We are available to meet with representative of the FCAA and any other interested stakeholders to discuss the consultation paper and our responses in more detail.

Sincerely,

The Board of Trustees.