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The Association of Canadian Pension Management

L'Association canadienne des administrateurs de régimes de retraite



January 20, 2014

ACPM Response to Ontario Consultation Paper:

Securing our Future: Strengthening retirement income in Ontario through Pooled Registered Pension Plans

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FOREWORD

The Association of Canadian Pension Management (ACPM)

The Association of Canadian Pension Management is the informed voice of Canadian retirement income plan sponsors, administrators and their allied service providers. We are a non-profit organization and our objective is to advocate for an effective and sustainable Canadian retirement income system. Our membership represents over 400 retirement income plans consisting of more than 3 million plan members, with assets under management in excess of \$330 billion.

The ACPM promotes its vision for the development of a world-leading retirement income system in Canada by championing the following Guiding Principles:

- Clarity in legislation, regulations and retirement income arrangements;
- Balanced consideration of other stakeholders' interests; and
- Excellence in governance and administration

Introduction

ACPM is pleased to provide input on the Ontario consultation paper on Pooled Registered Pension Plans.

In the chart below we have provided our comments on each of the questions asked in the paper. Should clarification or further input be required we would welcome the opportunity to respond either in writing or in person as the need requires.

Questions and Responses:

Question	Response
<p>1. Eligibility Under the federal framework, PRPPs would not be available to unemployed individuals.</p> <p><i>Would it be beneficial to broaden eligibility to allow anyone in Ontario with unused RRSP room to participate, regardless of their employment status?</i></p>	<ul style="list-style-type: none"> • Yes. All Ontarians should be able to enjoy the benefits of a PRPP. The ACPM believes that in order to take full advantage of this Plan Ontarians would benefit from greater access to Plan specific and general financial information from the province, plan administrators and other stakeholders. • Should broad access be granted, Ontario may wish to consider a minimum contribution level, ease of account consolidation or some other approach, harmonized with the other PRPP jurisdictions, to building meaningful account balances that will help to keep administrative costs low.
<p>2. Key Elements of a PRPP The federal framework does not require employers to offer a PRPP. Quebec has proposed a different approach....under which employers that employ at least five individuals and do not offer other retirement savings arrangements would be required to offer a PRPP.</p> <p><i>Should Ontario's PRPP framework require employers to participate? If yes, should there be any exceptions?</i></p>	<ul style="list-style-type: none"> • Ontario's PRPP framework should require employers that don't offer a retirement savings plan as defined below to participate in the Plan. In order to meaningfully increase pension coverage among small and medium sized employers at lost cost, ACPM recommends that Ontario adopt the VRSP framework for employer participation. That framework does not require participating employers to contribute to the Plan and eligible employees could still opt out of participation. ACPM supports both of these concepts. • Employers that offer a pension plan, Group RRSP or a Group TFSA would not be required to participate. • In this mandatory environment, the benchmark for defining "low cost" should ideally follow what will be proposed in the Québec framework. • Enforcement of the obligation to participate should leverage existing government resources, rely on employer certification and should be complaint driven.

Question	Response
<p>3. Employee Participation</p> <p>The federal PRPP framework requires participating employers to automatically enroll their employees into a PRPP, and provides a 60-day period during which employees may opt out. A challenge with this model is that employees may not realize that they need to actively opt out of a PRPP if they decide against joining a plan.</p> <p>It is important to note that lower-wage workers can usually meet or exceed their pre-retirement earnings through the existing benefits provided by the current CPP, OAS, GIS and the Guaranteed annual Income System (GAINS). This suggests that an additional tool such as PRPPs may not be necessary for lower-wage workers.</p> <p><i>a. Should Ontario’s PRPP framework provide for automatic enrolment of employees? Or, should employees instead be required to opt in to a PRPP?</i></p> <p><i>b. If employee enrolment is automatic, should employees have longer than 60 days to opt out?</i></p> <p><i>c. If employer participation is mandatory, should employees also be required to join and remain in the plan?</i></p> <p><i>d. Should lower-wage workers be exempt from either mandatory employee participation or automatic enrolment?</i></p>	<p>a) Where an employer participates, its employees should be automatically enrolled. Employees enrolled automatically may then opt out of the PRPP.</p> <p>b) No. Harmonization is of primary importance.</p> <p>c) Employees should be automatically enrolled in the PRPP but could opt out.</p> <p>d) No. If proper education is provided lower wage workers will be able to exercise their opt out rights when that is appropriate. As an alternative, to the extent possible and on a harmonized basis with other jurisdictions, a Plan could be designed to require a participating employer to remit contributions of, for example, 5% of gross income over \$20,000 subject to Plan member adjustment or opt out. This means that all working Ontarians can participate in a PRPP while recognizing that those in the lowest income level should not contribute. On a less positive note, this proposal does add administrative complexity to the plan and will result in many zero or small balance accounts.</p>
<p>4. Member Termination</p> <p>Under the federal framework, plan members who enroll individually, such as self-employed individuals, have the option of terminating their membership in their PRPP or transferring to a different PRPP administrator at any time. In contrast, members who are enrolled in a PRPP by their employers are unable to terminate their membership in the PRPP after the 60-day opt-out period unless they leave their job.</p> <p><i>a. Should all plan members be allowed to end their membership in a PRPP at any time? If so, should they also be allowed to rejoin at any time?</i></p>	<p>a) Plan members who do not opt out, should have the ability to set their contribution rate to 0% for a temporary period but not to end their membership in the Plan. Harmonization with the federal framework is the preferred approach.</p>

Question	Response
<p><i>b. Should all PRPP members be able to transfer their assets to a different administrator if they are dissatisfied with their current administrator?</i></p>	<p>b) Not while they are actively employed. This should be an employer decision in order to avoid the costs of creating new payroll processes.</p>
<p>5. Employee Contribution Rates The federal framework provides for plan members' contribution rates to be set by the administrator. It also allows the administrator to increase plan members' contribution rates automatically from time to time. For example, a PRPP administrator could set a contribution rate of three per cent for the first year and increase this rate by half a percentage point each year until the member reaches a maximum rate. Quebec has proposed a different approach to contribution rates in its VRSP framework. Plan members would be able to determine their own contribution rates.</p> <p><i>a. Which approach to contribution rates would better serve Ontarians? What is the best approach to contribution rates in the event that the PRPP framework required mandatory employee participation?</i></p> <p><i>b. If Ontario allowed contribution rates to be set by administrators, should administrators also be permitted to increase members' contribution rates automatically from time to time?</i></p> <p><i>c. If yes, should there be a specified time period during which plan members can opt out of proposed contribution rate increases?</i></p>	<p>a) Following the federal framework of setting the contribution rate in the Plan and allowing plan members to opt out or adjust the rate is the preferred approach.</p> <p>b) Yes. The Plan would be permitted to provide for automatic annual member contribution increases of some percentage per year subject to member opt out.</p> <p>c) Any plan member flexibility must be tempered with administrative simplicity in order to attain the low cost objective.</p>
<p>6. Employer contributions Under the federal framework, participating employers are not required to contribute to a PRPP. This is different from the requirement in the CPP legislation or the general requirement in Ontario that employers who choose to offer a registered pension plan must also contribute to the plan.</p> <p><i>a. Should Ontario employers who offer a PRPP be required to contribute to the plan? If yes, should employer contributions still be required if the PRPP framework mandated employer participation?</i></p> <p><i>b. If a mandatory contribution is desirable, should there be a minimum contribution rate?</i></p>	<p>a) Participating employers may contribute on behalf of employees, but should not be subject to a minimum contribution level. Small and medium sized employers will need some flexibility.</p> <p>b) See above.</p>

Question	Response
<p>7. Low cost</p> <p>The PRPP Act requires administrators to provide PRPPs at a “low cost” to members. The associated regulations state “costs are to be at or below the costs incurred by the members of defined contribution pension plans that provide investment options to groups of 500 or more members” and “costs are to be the same for all members of a PRPP.” This definition is intended to ensure that PRPP members benefit from the group pricing that large DC pension plans are offered.</p> <p><i>a. Is this definition of “low cost” appropriate? Should Ontario develop a different definition of low cost? If yes, what should the definition be and should it include a maximum fee?</i></p> <p><i>b. How much detail should be required to be disclosed to plan members on costs and fees?</i></p> <p><i>c. Should Ontario consider other restrictions on certain fees, such as trailer fees?</i></p>	<p>a) Yes, the definition is appropriate for a PRPP in which employer participation is voluntary. Ontario should not develop a different definition. Should Ontario adopt the VRSP framework of mandatory employer participation, it should adopt the benchmark developed by Québec. Harmonization is key.</p> <p>b) The federal approach, as is currently also reflected in the Guidelines for Capital Accumulation Plans, provides sufficient information about costs and fees.</p> <p>c) No. Any such costs will be included in the low cost construct so further regulation is not required.</p>
<p>8. Locking in</p> <p>The federal framework requires both employer and employee contributions to be “locked in” until the retirement age.</p> <p>In contrast, Quebec’s proposed VRSP framework provides that contributions made by employees or individual members would not be locked in. This means that individuals would be able to withdraw their funds at any time; however, upon withdrawal, they would be required to pay the income tax that was previously deferred (employer contributions would continue to be locked in). For example, an individual may choose to withdraw his or her contributions to a PRPP in order to aid in the purchase of a house. As a result, it is possible that PRPP funds could be used for purposes other than providing an individual with income during retirement.</p> <p>Allowing greater flexibility in withdrawing funds may benefit certain plan members but could also lead to increased administration fees for all PRPP members.</p> <p><i>a. Should Ontario allow plan members to access their PRPP account periodically for pre-retirement spending?</i></p> <p><i>b. Should employer contributions, if any, be required to be locked in?</i></p>	<p>a) Yes. ACPM prefers the approach taken by Québec with the VRSP both due the benefits of harmonization and for its simplicity.</p> <p>b) Yes.</p>

Question	Response
<p>c. Would a locking-in requirement deter individuals from joining a PRPP?</p>	<p>c) The ACPM believes that the Québec approach will minimize any deterrent effect. The approach was adopted from Québec's simplified pension plan which was designed to be attractive to prospective plan members.</p>
<p>9. Disclosure Requirements</p> <p>The federal framework requires that each member receive an annual written statement, in paper or electronic form, from the plan administrator outlining key pieces of information, including:</p> <ul style="list-style-type: none"> • The member's investment option and the degree of associated risk; • Contributions made by the member and employer, if any, over the course of the year; • Opening balance, the change in the investments' value (net of costs) and the closing balance; • The performance history of the member's investment option over an extended period of time compared to a benchmark; and • Any costs, fees, levies and other charges, expressed as a percentage or a fixed amount. <p>a. What other information about a member's PRPP would be important to include in the annual statement?</p> <p>b. Should plan members be provided with more than one written statement annually — for example, quarterly statements?</p> <p>c. Should plan members be provided with information about the plan administrator, such as its financial capacity, investment practices and governance structure? Are there other disclosure requirements that would help ensure greater transparency and accountability?</p>	<p>a) The federal requirements are sufficient and appropriate.</p> <p>b) Harmony with the federal approach to disclosure is preferred. This would include emphasis on making information available at all times on readily accessible websites and an ability for PRPP members to consent to an electronic annual statement.</p> <p>c) The ACPM believes that the licensing regime will satisfy the vast majority of Plan member questions about the plan administrator. In this regard, the licensing body could post information about its licensing assessment of the plan administrator. In addition, plan administrators may wish to voluntarily post information about themselves on a publicly accessible website.</p>
<p>10. Eligible Administrators</p> <p>The federal PRPP Act allows any corporation that is in possession of a valid license issued by the Superintendent of Financial Institutions to offer PRPPs. Eligibility would be based on an assessment of the prospective administrator's ability to offer PRPPs consistent with a series of principles designed to encourage low costs and ensure that PRPPs are offered by regulated entities with appropriate experience (see licensing, regulation and supervision below). PRPP administrators could include financial institutions such</p>	<p>ACPM does not believe that government should restrict which types of corporations can be administrators. Government design should focus on ensuring expertise in asset management, security of assets, availability of capital, transparency, and ensuring that all administrators comply with minimum standards set to meet these goals.</p>

Question	Response
<p>as banks, credit unions and insurance companies as well as DB pension plan administrators.</p> <p><i>Should there be restrictions on which types of corporations can be administrators of PRPPs? If so, what kind?</i></p>	
<p>11. Standard of Care</p> <p>Similar to Ontario’s <i>Pension Benefits Act (PBA)</i>, the federal PRPP Act requires a PRPP administrator to “exercise the degree of care that a reasonably prudent person would exercise in dealing with the property of another person and the diligence and skill that it possesses, or ought to possess, taking into account the administrator’s business.”</p> <p>PRPPs would likely be offered by institutions where the obligation to maximize profits could potentially conflict with the duty to act in the best interests of PRPP members. For example, institutions may be incented to choose higher fee investments to maximize profits, which may not be in the best interest of plan members with respect to their investment strategy. At the same time, they would be constrained by the legislative requirement that plans be offered at a low cost.</p> <p><i>Are there more specific requirements or limitations required to mitigate against potential conflicts of interest?</i></p>	<p>ACPM feels that the duty of care in the federal framework provides sufficient protection for plan members while allowing the Plan to be offered on a commercial basis. The Ontario PRPP framework should accommodate providing services through affiliates as long as they are on terms no less favourable than market. Plan members remain protected through the oversight regime applicable to plan administrators and the low cost principle applicable to all PRPPs.</p>
<p>12. Licensing, Registration and Supervision</p> <p>The federal framework requires PRPP administrators to be licensed by the federal Superintendent of Financial Institutions, who is also responsible for overseeing federally regulated registered pension plans. Once issued, a license would not expire and would not be revocable.</p> <p>Administrators must also register each PRPP they intend to offer with the Superintendent and Canada Revenue Agency before they can market the product.</p> <p>In addition, the Superintendent is responsible for the ongoing supervision of PRPPs under federal jurisdiction, such as ensuring that PRPPs are offered at low cost and that plan members are adequately informed. If it is found that an administrator does not fully comply with the PRPP Act and associated regulations, the Superintendent has the authority to issue sanctions against the administrator. This authority includes the ability to revoke the registration of the plan in question (the administrator would, however, remain licensed), and prohibit the administrator from entering into any new contracts with employers or accepting new members.</p>	

Question	Response
<p>In Ontario, pension plans are registered with the Financial Services Commission of Ontario (FSCO) and are regulated by FSCO to ensure compliance with the PBA. As the pensions regulator, FSCO could also be responsible for the regulation of PRPPs in Ontario, including the licensing of administrators, the registration of PRPPs and the ongoing supervision of the regime. As discussed further below, harmonization of the regulation and supervision of PRPP frameworks across the country may be an important consideration.</p> <p>a. What conditions should be required to obtain a license?</p> <p>b. Should Ontario PRPP licenses have an expiration date? If so, after what period of time should a license expire?</p> <p>c. Should Ontario PRPP licenses be revocable? If so, under what conditions should a license be revoked?</p> <p>d. What types of sanctions and enforcement mechanisms would a supervisory authority require to regulate PRPPs effectively in Ontario?</p> <p>e. What factors should be considered in determining which authority regulates and licenses PRPPs?</p>	<p>a) Ontario’s design should focus on ensuring expertise in asset management, security of assets, transparency, availability of capital and ensuring that all administrators comply with minimum standards set to meet these goals.</p> <p>b) No. The annual filing requirements should provide sufficient transparency to the regulators. ACPM prefers the federal approach in this regard.</p> <p>c) Yes. Failure to abide by regulatory requirements, evidence of market misconduct, failure to meet financial minimum thresholds would be among the reasons for revoking a license.</p> <p>d) ACPM believes the sanctions in the federal framework should be utilized rather than developing new rules.</p> <p>e) The greater the degree of harmonization of supervisors’ responsibilities among federal and provincial jurisdictions, the more effective will be the framework in practice.</p> <p>ACPM encourages all regulators to continue to rely on each others’ expertise. In this context, the concept of a lead regulator¹ is a sound practice.</p>
<p>13. Harmonization</p> <p>The federal framework allows the federal supervisory authority to enter into bilateral and multilateral agreements with the provinces to develop an efficient method of supervising PRPPs across the country, particularly where a PRPP has members in more than one jurisdiction. A coordinated approach to the licensing and supervision of PRPP administrators would result in fewer resources required for both administrators and regulators and would likely help to keep costs low. A coordinated approach to supervision, however, would require generally harmonized PRPP frameworks across the country.</p>	<p>a) The greater the degree of harmonization among federal and provincial jurisdictions, the more effective will be the framework in practice. Harmonization of rules will clearly be most conducive to more organizations offering plans in all jurisdictions, and will result in lower costs.</p> <p>b) It is a challenge to identify elements of the framework that should <i>not</i> be harmonized given the PRPP’s nature as a simplified, low</p>

¹ Under this approach, the lead regulator of a PRPP would be the major authority, which would be the jurisdiction where the plurality of members is located. The lead regulator’s framework would apply for all ‘plan related’ matters, while other rules would apply for matters more related to the individual member, such as disclosure and locking-in requirements.

Question	Response
<p><i>a. How important would it be that Ontario harmonizes with existing PRPP frameworks?</i></p> <p><i>b. Which elements of the PRPP framework would be the most critical for harmonization?</i></p> <p><i>c. Are there any areas where Ontario should deviate from the existing PRPP model regardless of whether it reduces harmonization of PRPP frameworks across the country?</i></p>	<p>cost retirement vehicle that is to be widely available. The rules around the investment offerings, the means and content of plan member information disclosure and the approach to contribution rates are among the key areas that require harmonization.</p> <p>c) Mandatory participation by employers (subject to the constraints outlined above) will be the key means for increasing pension coverage among small and medium sized employers. It is therefore worthy of variance from those jurisdictions which choose a voluntary approach.</p>