



April 13, 2016

Hon. Bill Morneau  
Minister of Finance  
90 Elgin Street  
Ottawa, Ontario  
K1A 0G5

Dear Minister Morneau:

**Re: ORPP Proposed Inclusion - Federally Regulated Employers**

The Association of Canadian Pension Management (ACPM) 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.

As you are aware, the Province of Ontario has indicated that it intends to proceed forward with the implementation of the Ontario Retirement Pension Plan (ORPP), subject to potential discussions pending in June between the federal government and the provincial governments regarding reforms to the Canada/Québec Pension Plan.

At present, the ORPP is scheduled to commence a phased-in implementation beginning January 1, 2018. Ontario has stated that it will be asking the federal government for the ability to include Ontario based federally regulated employees in the ORPP. This is a matter of significant concern to our federally regulated members as well as private sector and Crown corporations. We are writing to express our opposition to Ontario's proposal and to request that the federal government not permit federally regulated employees to participate in the ORPP.

The federal government has constitutional authority over employers in federally regulated areas of activity. The federal government currently offers a comprehensive human resources regulatory regime applicable to federally regulated employers and employees. This regime includes the *Canada Labour Code*, the *Canada Human Rights Act*, the *Pension Benefits Standards Act, 1985* ("PBSA"), the *Employment Equity Act*, and other applicable legislation.

We do not believe it is necessary or appropriate for the Government of Canada to abrogate its responsibilities for federally regulated employees. Rather if additional coverage is deemed necessary, Ottawa has the capacity to address it for all federally regulated employees rather than balkanizing coverage for employees subject to federal jurisdiction. This is especially significant in light of the federal/provincial discussions taking place with respect to Canada/Québec Pension Plan improvements.

Since most federal employers offer a registered pension plan to their employees, requiring participation by federally regulated employees in the ORPP would uniquely make federally regulated employers subject to two pension regulatory regimes – the federal PBSA and the provincial ORPP.

Ontario has stated that those participating in a "comparable plan" will not be required to participate in the ORPP. A "comparable plan" is a registered pension plan that meets certain minimum thresholds, which have been established by Ontario for defined benefit pension plans and for defined contribution pension plans. This exclusion may be suggested as offering some assurance to federally regulated employers that participation in the ORPP would not be required. This assurance is illusory.

The key point of complexity for federally regulated employers is that the "comparable pension plan" test is applied not at the employer level, but rather to each individual employee. In other words, the question is not whether an employer offers a comparable pension plan. Instead, the question is whether each employee participates in a comparable pension plan. Federally regulated employers will face significant additional complexity and cost, for a very modest benefit for employees, based on the following:

1. Casual and part-time employees will be required to be enrolled, provided they meet the minimum earnings threshold of only \$3,500 per year;
2. Registered pension plans may have a waiting period of up to two years before enrolment in the pension plan. Employees currently in a waiting period (whether full-time or part-time) will need to be enrolled in the ORPP;
3. Some registered pension plans have optional enrolment or contribution levels in defined contribution plans that are set by employee election. Employees who elect not to enrol in the registered pension plan or elect a contribution level that is below the ORPP comparable plan threshold will need to be enrolled in the ORPP;
4. The ORPP pensionable earnings definition for employees in the waiting period, casual employees and part-time employees will include both cash and non-cash earnings, including bonuses, commissions and tips and will therefore be different than the pensionable earnings definitions of most, if not all, federally regulated employers that offer a registered pension plan;
5. If federally regulated Ontario employees not immediately eligible for a comparable plan do participate in the ORPP, this will result in workforce inequity and disparity (both in terms of benefits and costs) for this employer amongst similarly situated employee groups.
6. If employees of federally regulated employers transfer to or from Ontario, registration in the ORPP will have to be initiated or terminated. This is a departure from the uniform regulatory treatment that federally regulated employers and employees otherwise enjoy on a national basis.

For these reasons, enrolment of federally regulated employers and employees in the ORPP is a major concern to the pension plan sponsors and administrators who operate under the PBSA regime. We will follow-up to discuss further our concerns, either by way of conference call or meeting.

Yours very truly,



Bryan Hocking  
Chief Executive Officer

cc: Lynn Hemmings, Senior Chief, Pensions, *Finance Canada*