February 21, 2018

Office of the Superintendent – Pension Commission
Room 1004 – 401 York Avenue
Winnipeg MB R3C 0P8

Via email: pensions@gov.mb.ca

Dear Sir/Madam:

Re: Feedback and Comments on Department of Finance Consultation Paper

Please find enclosed the ACPM response to the questions raised in the Department of Finance Consultation Paper dated January 2018 regarding a review of the Pension Benefits Act of Manitoba.

ACPM is the leading advocate for plan sponsors and administrators in the pursuit of a balanced, effective and sustainable retirement income system in Canada. We represent plan sponsors, administrators, trustees and service providers and our membership represents over 400 companies and retirement income plans that cover more than 3 million plan members.

ACPM supports the review of the Pension Benefits Act undertaken by the Pension Commission of Manitoba as laid out in their Recommendations paper, and the consultation and feedback on the proposed changes that is being sought by the Department of Finance in their Consultation Paper.

The following submission represents the view of ACPM on the specific questions put forward by the Department of Finance in Parts 3 through Part 5 of the Consultation Paper (Parts 1 and 2 were introductory comments and details on how to submit comments, while Part 9 was a glossary of terms). Although we did not specifically comment on Parts 6 through 8, we are in favor of clarifications to legislation, as long as there is no material increase in the administrative burden placed on plan sponsors.

Part 3 – New Plan Designs

Question 1 – Should Manitoba develop a regulatory framework for a new target benefit (TB) or shared risk (SR) pension plan design?

We believe that the Pension Benefits Act should be amended to enable target benefit plan designs in Manitoba. Having the option of the target benefit model would be helpful and, in our view, has many advantages over the defined contribution model, with which many defined benefit plans are being replaced. Target benefit plan designs could be seen as a natural middle ground between the traditional DB and DC plan designs. Our view is that the target benefit plan is an innovative and viable pension model that promotes important objectives such as sustainability, coverage and adequacy.

Question 2 – If so, should a target benefit or a shared risk pension plan framework be developed?

In our view, the target benefit models that were adopted in Alberta and British Columbia are much simpler and easier to administer and regulate than the New Brunswick shared risk model. In addition, if an enhanced going concern funding framework model were enacted (which is supported by ACPM as detailed in our response to Part 4 below), then it would be a relatively simple matter of linking the target benefit funding model to the enhanced going-concern funding model.

Question 3 – Should the new plan design be available to both single employer and multi-employer plans, and both private and public-sector plans?

We do not believe target benefit plans should be restricted to one particular employment structure or sector. The employer or employers, and other plan stakeholders as appropriate, should have the ability to adopt a plan design that is best suited for their particular industry and workforce. We believe that target benefit plan designs are a viable option for both single employer and multiemployer pension plans in both the private and public sector.

Question 4 – Should the new plan design be restricted to unionized environments?

We strongly believe that the target benefit plans can work in a non-unionized context. However, we recognize that in a non-unionized environment, it may be ideal to provide for employee representation in the governance model. Employee representation would ensure there is employee input into the administration and communications about the plan. The governance model should also allow for the flexibility to select a structure that is appropriate for the stakeholders of the plan.

Question 5 – Should conversion to the new plan design be permitted for future benefit accruals only?

As recommended by the Canadian Institute of Actuaries and in the ACPM target benefit plan position papers (https://www.acpm.com/publications.aspx), we believe that plans should have the option of converting past benefits. Allowing a plan to convert accrued benefits is important for plan sponsors in some circumstances, particularly where plans face funding challenges due to changing economic and other circumstances. Without the ability to convert past accrued benefits, plan sponsors may still see a defined contribution arrangement (DC RPP, Group RRSP, or DPSP) as a better alternative than continuing with a DB pension plan. A conversion may also be a fairer alternative than having future generations pay more and/or receive less than earlier generations. If conversions were not permitted, young plan members may well have to bear a disproportionate level of financial responsibility and risk in relation to their plan benefits, and unless the plan sponsor is willing to assume the funding risk, could well receive lesser pensions in the future.

Question 6 – If conversion of existing benefits is permitted, should union or member consent be required?

It may be reasonable to permit conversion with the consent of plan beneficiaries. At the least, union consent for existing accrued benefits should be optional. For non-unionized environments, a possible model would be to allow for the vote of the membership (including deferred members and beneficiaries) and to only allow past service conversion if less than one-third of those who vote object to the conversion of past service.

This model for consent is similar to the model adopted in Manitoba for the purposes of electing solvency relief under the 2016 regulation. In addition, it would be reasonable to negate and reverse any past service conversion for any plan which is wound up within a prescribed period, say 5 years after the conversion. At the very least, voluntary conversion of past service should be available at the individual level.

Part 4 – Solvency Deficiency Funding Rules

General Comments

ACPM supports Manitoba reviewing its funding rules in order to address the current circumstances and improve the sustainability of defined benefit (DB) pension plans for the long-term. We are pleased that the framework set out in the Consultation Paper recognizes the issues of prolonged low interest rates, increased longevity and funding challenges that were similarly laid out in our DB Pension Plan Funding paper dated May 13, 2014 (DB Pension Plan Funding: Sustainability Requires a New Model).

Our May 2014 paper had four objectives that we recommend be adhered to when the government makes its decisions. The new model:

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

We understand that a balance between benefit security and affordability/sustainability requires compromises and this response sets out our preferred approach and provides commentary on the options presented with that in mind.

We also believe that when constructing a new funding framework, it would be preferable to aim for harmonization with other jurisdictions within Canada. In addition, any modification to the funding rules should not increase the burden of administration or cost to plan sponsors, which could simply further discourage employers from offering defined benefit plans.

Consultation Paper

The Consultation Paper is specifically seeking input on reforms to the funding framework for defined benefit plans in Manitoba.

Four possible options were put forward for consideration as follows:

1) eliminate solvency funding and enhance going concern funding,
2) introduce solvency reserve accounts,
3) eliminate solvency funding and maintain the current going concern funding, or
4) maintain the current solvency funding rules.

Question 7 – Are any of the above options reasonable and practical in a Manitoba Context?

The Consultation Paper indicates that the goal for the funding review is to develop a set of rules that focus on plan sustainability, affordability and benefit security while balancing the interest of all pension stakeholders. Regardless of the methodology adopted, we believe that it is preferable to start with the ongoing measure of the pension obligation and then strengthen those funding rules to improve benefit security. Therefore, we generally agree with Option #1 and strongly encourage its adoption – eliminating solvency funding and strengthening going concern funding. However, we note that certain public-sector pension plans in Manitoba are currently exempt from solvency funding. We would caution against imposing any drastic changes to the funding requirements of such pension plans.

That being said, the enhanced going-concern funding framework could be a good model for such pension plans, provided a reasonable adjustment period is provided. For example, the funding requirements could be the lesser of that under the current model and the new model for a five-year period, and then either immediately or gradually change to the new model. In other words, these particular plans would transition from Option 3 to Option 1 over some reasonable time period.

Alternatively, you could specifically exempt these plans from certain requirements of enhanced going concern funding (e.g. funding of a provision for adverse deviation) under the presumption that those entities are supported to some extent by a government or government authority and have a lower likelihood of failure.

ACPM also believes that the introduction of solvency reserve accounts (or simply a reserve account in the absence of solvency funding requirements), as described under option 2, would assist in reducing the asymmetry that currently exists in the defined benefit plan funding model. In this model, a plan sponsor who is having a good year, could conceivably feel more confident in accelerating contributions towards a funding deficit if the employer had some assurance that a withdrawal of amounts from the reserve account is possible when the funded ratio meets certain prescribed conditions. We note that the concept of reserve accounts could be utilized in conjunction with Option 1 with respect to any required provision for adverse deviation (PfAD).

Question 8 – If so, which option or combination of options described above would be most effective in balancing the different interest of plan sponsors, unions, members and retirees?

As mentioned in our answer to Question 7, we believe that the combination of enhanced going concern funding, the elimination of solvency funding and the adoption of the concept of reserve accounts, would best address and balance the needs of various stakeholders.

Question 9 - If a regulatory framework based on option 1 is developed, which approach or combination of approaches described under option 1 should be considered?

Option 1 proposes several potential modifications to the going concern funding rules if an enhanced going concern model were to be adopted. We comment on each approach below.

Approach A – Shorten the amortization period: We understand the rationale for shortening the going concern amortization period as a compromise for eliminating the five-year amortization of solvency deficits. Our preference would be to have an amortization period of 10 years, with a continuing consolidation of the total unfunded liability (rather than the current approach of potentially multiple amortization schedules). In addition, we recommend a transition period of five years to phase-in the decrease in amortization period from 15 years to 10 years.

Approach B – Require a provision for adverse deviation (PfAD): ACPM agrees that a funding cushion through a PfAD is important to ensure there is a buffer for poorer economic environments to safeguard member security. The PfAD should also reflect plan risks. A reserve account could be used in conjunction such that employer contributions for the PfAD are accumulated to enhance benefit security when the plan is below a threshold surplus level, and may only be reduced by taking a contribution holiday or withdrawn by the employer once the plan exceeds a threshold surplus level.

The PfAD defined in the legislation could be defined in a similar manner to Québec legislation, in that it should vary with the target asset allocation to risky assets and the interest rate risk hedging ratio. The PfAD should not be based on an asset only measure and should reflect some measure of asset/liability mismatch (like QC).

We have, however, concerns with increasing the costs for plan sponsors that already apply appropriate governance and risk management principles to their plans and are currently in a going concern surplus situation.

Approach C – Solvency trigger for enhanced funding: We believe a well-constructed enhanced going-concern funding framework should not require a secondary solvency funding test.

Approach D – Consolidation of deficiencies: Consolidation of going concern deficiencies is consistent with the federal funding rules and the proposed funding rules in Ontario. We believe that this approach would help stabilize the funding requirements by avoiding multiple schedules of payments piling up on each other. This approach also adds transparency to the system and will be clear to all stakeholders.

Question 10 – If the 100% solvency threshold is reduced to require partial funding, is a threshold of 85% appropriate? If not, what should the threshold be?

As mentioned, our preference would be the complete removal of solvency funding and an increase to benefit security and sustainability through the enactment of enhanced going concern funding requirements. Regarding the funding of a percentage of the solvency liability, we believe there is no sound risk management principle to support funding a percentage of the liability and believe that this could be seen as arbitrary and ripe for pressure to change.

Question 11 – Are there any other reforms to the funding framework that should be considered?

The following additional modifications could be made to support the funding framework in Manitoba.

Valuation Filing Requirements

If an enhanced going concern funding framework is adopted, the contribution requirements will become much more stable, and accordingly, annual actuarial valuations for all plans would result in an unnecessary expense. Triennial valuations of well-funded pension plans have served the pension industry well for many decades now and are already a balancing of what is a very long-term commitment with a need to ensure that plans are monitored on a regular basis. We suggest that annual valuations, if used, should be conducted when specific funding thresholds are not met, for example a going-concern funded ratio of less than 90%.

Commuted Values

An issue not raised in the Consultation Paper is commuted values. If the enhanced going-concern model is adopted, then it would be appropriate to revisit the calculation of transfer values. We believe that commuted values would be more appropriately determined using a plan's going concern assumption basis. If Manitoba agrees, then they could reference the new section 3570 of the Canadian Institute of Actuaries (CIA) Standards of Practice that is being developed to determine the commuted value basis for plans that pay commuted values utilizing a going concern basis.

We further believe the commuted value would be multiplied by the most recently determined funded ratio (and would not provide the unfunded portion of the commuted value in five years). Terminated members always have the option of selecting the deferred pension (or immediate pension, if applicable), and potentially could be offered the commuted value option periodically, say every 5 years, as the funded ratio might improve in future years.

Annuity Discharge

We understand that Manitoba's current perspective in this area is not fully clarified. ACPM believes that a buy-out annuity should no longer be an asset of an active pension plan and that the administrator and the plan sponsor should be discharged of the pension liability for the following reasons:

I. Legislative protections for the prospective annuitants and the remaining plan members are already in place in the form of the top up payment and/or approval of the relevant regulator;
II. Life annuities are already recognized within pension statutes as a portability option for plan members because of their benefit security features;
III. It is the expectation of plan sponsors that the plan be discharged in respect of the liability and the expectation of annuitants that their benefits are not subject to reduction as a result of the subsequent wind up of a plan in deficit. Since the annuity obligation is in the name of the annuitant, and not the plan, this expectation is reasonable. It is also not typical for the certificates issued to annuitants to make provision for benefit reduction in the event of the wind up of the pension plan;
IV. The need to make provision for a possible liquidity event would lead to an increase in the cost of annuities; and
V. Harmonization with other jurisdictions. British Columbia, Alberta, Ontario, Québec, and the Federal government have recently introduced amendments to their respective pension legislation that

include a discharge for the administrator and the employer, subject to prescribed but as yet to be published conditions.

Part 5 – Locking-in Provisions and access to locked-in funds

Question 12 – Should Manitoba develop a regulatory framework to permit locked-in funds to be accessed due to financial hardship? If so, under what conditions?

ACPM believes that encouraging retirement savings is part of an efficient and sustainable retirement savings system and that RPP funds should generally remain locked in until retirement age. Manitoba is exploring an exception to locking-in for reason of financial hardship. While unlocking under this condition would be contrary to our general principle of funds remaining locked-in until retirement age, we understand that there may be a policy rationale for offering this exception and that other jurisdictions (e.g. Alberta, BC and Ontario) permit unlocking due to financial hardship. Therefore, this change would provide harmony with other jurisdictions, which would be supported by ACPM.

We strongly recommend that the ability to unlock due to financial hardship should be permissive and not mandatory, and/or that the unlocking provisions should only apply to LIRAs and LIFs to avoid creating a burden on RPP administrators.

Question 13 – Should other reforms to the locking-in provisions in the PBA be considered?

The Recommendations from the Pension Commission suggest that 100% unlocking of LIRAs and LIFs be permitted at age 65 and that the unlocked funds should be allowed to be transferred to an RRSP. We understand that retirees need flexibility in retirement with respect to managing their income. Retirees should be permitted to decide whether they want to unlock their RPP funds held outside of the RPP. However, the amount subject to unlocking should continue to be subject to the 50% limit upon attainment of at least age 55 under current Manitoba legislation. The proposed change to 100% unlocking suggested by the Pension Commission would be against the principle of harmonization across jurisdictions across Canada as there is currently only one jurisdiction (Saskatchewan) that permits 100% unlocking.

We do, however, support expanding the 50% unlocking currently available for LIFs to LIRAs, subject to the member's attainment of retirement age.

We appreciate the opportunity to provide input on this issue. Please do not hesitate to contact us if you have any questions.

Sincerely,

Ric Marrero
Interim CEO
ACPM